

WSR 11-13-046
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed June 9, 2011, 2:44 p.m., effective July 10, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update agency adoptions of external regulations by reference; readopt specific rule sections to refer to most recent version of chapter 173-401 WAC.

Citation of Existing Rules Affected by this Order: Amending Sections 104, 300, 305, 320, 321, and 322 of the Regulation of the Northwest Clean Air Agency.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 11-09-071 on May 18 [April 19], 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 9, 2011.

Mark Buford
Assistant Director

AMENDATORY SECTION

Section 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law that are in effect as of May 18, 2011 ((as it now exists or may be hereafter amended)), which are ((is)) pertinent to the operation of the NWCAA, are ((is)) hereby adopted by reference and made part of the Regulation of the NWCAA. Specifically, there is adopted by reference the portions pertinent to the operation of the NWCAA of the Washington State Clean Air Act (((RCW)) chapter 70.94 RCW), the Administrative Procedures Act (((RCW)) chapter 34.05 RCW) and ((RCW)) chapters 43.21A and 43.21B RCW and the following state rules: chapter ((WAC)) 173-400 WAC, (except -035, -036, -070(8), -075, -099, -100, -101, -102, -103, -104, -105(8), -110, -114, -115, -116, -171, -560, -930), chapter ((WAC)) 173-401 WAC, ((WAC-173-406,)) chapter ((WAC)) 173-407 WAC, chapter ((WAC)) 173-420 WAC, chapter ((WAC)) 173-425 WAC, chapter ((WAC)) 173-430 WAC, chapter ((WAC)) 173-433 WAC, chapter ((WAC)) 173-434 WAC, chapter ((WAC)) 173-435 WAC, chapter 173-441 WAC, chapter ((WAC)) 173-450 WAC, chapter ((WAC)) 173-460 WAC, chapter ((WAC)) 173-470 WAC, chapter ((WAC)) 173-474 WAC, chapter ((WAC)) 173-475 WAC, chapter ((WAC)) 173-481 WAC, chapter ((WAC)) 173-490 WAC,

chapter ((WAC)) 173-491 WAC, chapter ((WAC)) 173-492 WAC, and chapter ((WAC)) 173-495 WAC, ((and portions of WAC 197-11 contained in Section 155)).

104.2 All provisions of the following federal rules that are in effect as of May 18, 2011 ((April 5, 2010)) are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, ((B, C, Cb, Ce, Cd, Ce,)) D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, ((BBBB,)) CCCC, ((DDDD,)) EEEE, ((FFFF, HHHH)) IIII, JJJJ, KKKK and Appendix A - I; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A((-B)), C, D, E, F((-H)), J, L, M, N, O, P, V, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, ((J,)) L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYYY, ZZZZ, AAAAA, BBBB, CCCC, DDDD, EEEEE, FFFFF, GGGG, HHHH, IIII, ((JJJJ, KKKK,)) LLLL, MMMM, NNNN, PPPP, QQQQ, RRRR, SSSS, TTTT, YYYYY, CCCCC, EEEEE, FFFFFF, GGGGGG, MMMMMM, NNNNNN, SSSSSS, VVVVVV; and 40 CFR 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

Amended: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

300.1 A Notice of Construction and/or PSD permit application must be filed by the owner or operator and an Order of Approval and/or PSD permit issued by the NWCAA, or other designated permitting agency, prior to the establishment of any new source, except for:

a) Those stationary sources exempt under NWCAA 300.4 (categorical) or NWCAA 300.5 (emission thresholds); and

b) Relocation of any temporary source operating in accordance with NWCAA Section 301.

For purposes of this section "establishment" shall mean to "begin actual construction", as that term is defined in NWCAA Section 200, and "new source" shall include any "modification" to an existing "stationary source", as those terms are defined in NWCAA Section 200.

300.2 Regardless of any other subsection of this section, a Notice of Construction or PSD permit application must be filed and an order of approval or PSD permit issued by the NWCAA prior to establishment of any of the following new sources:

a) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except Subpart AAA (Wood stoves) and such provisions of Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines;

b) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for asbestos demolition and renovation projects subject to 40 CFR 61.145;

c) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines;

d) Any project that qualifies as a new major stationary source, or a major modification;

e) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

300.3 New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing stationary source or modified and the air contaminants whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-113, as applicable.

300.4 Emission unit and activity exemptions.

Except as provided in NWCAA 300.1 and 300.2 of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction application.

a) Maintenance/construction:

- 1) Cleaning and sweeping of streets and paved surfaces;
- 2) Concrete application, and installation;
- 3) Dredging wet spoils handling and placement;
- 4) Paving application and maintenance, excluding asphalt plants;
- 5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant

painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

6) Plumbing installation, plumbing protective coating application and maintenance activities;

7) Roofing application;

8) Insulation application and maintenance, excluding products for resale;

9) Janitorial services and consumer use of janitorial products.

b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks therefore it is recommended that the owner or operator contact the NWCAA to determine the exemption status of storage tanks prior to their installation.

1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

4) Process and white water storage tanks;

5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

6) Operation, loading and unloading of storage tanks, less than or equal to 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21° C;

7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

c) A project with combined aggregate heat input capacity from combustion units, less than or equal to any of the following:

1) Less than or equal to 500,000 Btu/hr coal with less than or equal to 0.5% sulfur or other fuels with less than or equal to 0.5% sulfur;

2) Less than or equal to 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

3) Less than or equal to 400,000 Btu/hr wood waste or paper;

4) Less than 1,000,000 Btu/hr kerosene, #1, or #2 fuel oil and with less than or equal to 0.05% sulfur;

5) Less than or equal to 10,000,000 Btu/hr natural gas, propane, or LPG.

Note: the heat input capacity of each combustion unit shall be based on the higher heating value of fuel to be used.

d) Material handling:

1) Continuous digester chip feeders;

2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture;

3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%;

4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

e) Water treatment:

1) Septic sewer systems, not including active wastewater treatment facilities;

2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

3) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

4) Process water filtration system and demineralizer vents;

5) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

6) Demineralizer tanks;

7) Alum tanks;

8) Clean water condensate tanks.

f) Environmental chambers and laboratory equipment:

1) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

2) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

3) Installation or modification of a single laboratory fume hood;

4) Laboratory calibration and maintenance equipment.

g) Monitoring/quality assurance/testing:

1) Equipment and instrumentation used for quality control/assurance or inspection purpose;

2) Hydraulic and hydrostatic testing equipment;

3) Sample gathering, preparation and management;

4) Vents from continuous emission monitors and other analyzers.

h) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent.

i) Emergency Stationary Compression Ignition (CI) Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance and operating less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary CI ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

j) Miscellaneous:

1) Single-family residences and duplexes;

2) Plastic pipe welding;

3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

4) Comfort air conditioning;

5) Flares used to indicate danger to the public;

6) Natural and forced air vents and stacks for bathroom/toilet activities;

7) Personal care activities;

8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;

9) Tobacco smoking rooms and areas;

10) Noncommercial smokehouses;

11) Blacksmith forges for single forges;

12) Vehicle maintenance activities, not including vehicle surface coating;

13) Vehicle or equipment washing (see c) of this subsection for threshold for boilers);

14) Wax application;

15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;

16) Ozone generators and ozonation equipment;

17) Solar simulators;

18) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;

19) Electrical circuit breakers, transformers, or switching equipment installation or operation;

20) Pulse capacitors;

21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;

22) Fire suppression equipment;

23) Recovery boiler blow-down tank;

24) Screw press vents;

25) Drop hammers or hydraulic presses for forging or metal working;

26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

27) Kraft lime mud storage tanks and process vessels;

28) Lime grits washers, filters and handling;

29) Lime mud filtrate tanks;

30) Lime mud water;

31) Stock cleaning and pressurized pulp washing down process of the brown stock washer;

32) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

33) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;

34) Surface coating, aqueous solution or suspension containing less than or equal to 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

35) Cleaning and stripping activities and equipment using solutions having less than or equal to 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;

36) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

300.5 Exemptions Based on Emissions Thresholds

a) Except as provided in NWCAA 300.1 and 300.2 of this section and in this subsection:

1) A new emissions unit that has an uncontrolled potential to emit below each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

2) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with the NWCAA thirty (30) days prior to beginning actual construction on the project. If the NWCAA determines that the project will have more than a de Minimus impact on air quality as defined in 300.5 d), the NWCAA shall require the filing of a Notice of Construction or PSD permit application. The NWCAA may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below. In accordance with NWCAA 324.2, a filing and NOC applicability determination fee shall apply when the NWCAA issues a written determination that a project is exempt for new source review.

c) The owner or operator may begin actual construction on the project thirty-one (31) days after the NWCAA receives the project summary, unless the NWCAA notifies the owner or operator within thirty (30) days that the proposed new source requires a Notice of Construction or PSD permit application.

d) Exemption threshold table:

POLLUTANT THRESHOLD LEVEL (ton per year)

- 1) Total Suspended Particulates: 1.25
- 2) PM-10: 0.75
- 3) Sulfur Oxides: 2.0
- 4) Nitrogen Oxides: 2.0
- 5) Volatile Organic Compounds: total 2.0
- 6) Carbon Monoxide: 5.0
- 7) Lead: 0.005
- 8) Ozone Depleting Substances: total 1.0 (in effect on July 1, 2000)
- 9) Toxic Air Pollutants: as specified in chapter 173-460 WAC.

300.6 The Control Officer may require that a new source, that would otherwise be exempt under this section, submit a Notice of Construction application and be granted approval as specified in this section. This discretionary determination shall be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the Control Officer, appropriate information as necessary to make this determination.

300.7 Notice of Construction - Submittal Requirements
Each Notice of Construction application shall:

- a) be submitted on forms provided by the NWCAA;
- b) be accompanied by the appropriate fee specified in NWCAA 324.2;
- c) be accompanied by a completed State Environmental Policy Act (SEPA) checklist consistent with NWCAA 155; and
- d) include a "top down" BACT analysis, as defined at the time of submittal, except where the Federal Clean Air Act requires LAER; and
- e) An applicant filing a Notice of Construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, shall send a copy of the application to the responsible federal land manager.

300.8 Notice of Construction - Completeness Determination.

a) Within thirty (30) days after receiving a Notice of Construction or PSD permit application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of additional information necessary to complete the application.

b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

c) For a project subject to PSD review under WAC 173-400-720 through -750, a completeness determination includes a determination that the application provides all information required to conduct the PSD review.

300.9 Notice of Construction - Final Determination

a) Within sixty (60) days of receipt of a complete Notice of Construction or PSD permit application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 on a proposed decision, followed as promptly as possible by a final decision.

b) A person seeking approval to construct or modify a stationary source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction or PSD permit application required by this section. A Notice of Construction or PSD permit application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD permit application under WAC 173-400-720 through -750, a notice of nonattainment area construction application for a major modification in a nonattainment area, or a Notice of Construction application for a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

c) Every final determination on a Notice of Construction or PSD permit application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

d) If the new source is a major stationary source or the change is a major modification, the application shall be pro-

cessed in accordance with the applicable sections of WAC 173-400-112, 113, 117 and 171. The permitting agency shall:

- 1) Submit any control technology determination included in a final Order of Approval or PSD permit to the RACT/BACT/LAER clearinghouse maintained by EPA; and
- 2) Send a copy of the final Order of Approval or PSD permit to EPA.

300.10 Order of Approval - Appeals

An Order of Approval or PSD permit, any conditions contained in an Order of Approval or PSD permit, or the denial of a Notice of Construction or PSD permit application may be appealed to the Pollution Control Hearings Board as provided in chapter 43.21B RCW. The NWCAA shall promptly mail copies of each order approving or denying a Notice of Construction or PSD permit application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the Pollution Control Hearings Board.

300.11 Order of Approval - Time Limitations.

An Order of Approval or PSD permit becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

300.12 Order of Approval - Change of Conditions.

a) The owner or operator may request, at any time, a change in conditions of an Order of Approval or PSD permit and the NWCAA may approve the request provided the NWCAA finds that:

- 1) The change in conditions will not cause the stationary source to exceed an emissions standard;
- 2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- 3) The change will not adversely impact the ability of Ecology or the NWCAA to determine compliance with an emissions standard;
- 4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and
- 5) The revised order meets the requirements of this section and WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-720 through -750, as applicable.

b) Actions taken under this subsection are subject to the public involvement provisions of NWCAA Section 305 or WAC 173-400-171 as applicable.

c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a Notice of Construction application, that application must be

acted upon using the timelines found in NWCAA 300.8 and NWCAA 300.9 and the fee schedule found in NWCAA 324.

300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA may:

- 1) Require that the owner or operator employ RACT for the affected emission unit;
- 2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- 3) Prescribe other requirements as authorized by chapter 70.94 RCW.

c) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within thirty (30) days of receipt of a complete Notice of Construction application.

e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

300.14 (~~Incorporation~~) Adoption of State NSR Regulations

In order to facilitate complete implementation of this section, WAC 173-400-112, -113, -117, (~~-560~~) -700, -710, -720, -730, -740, and -750 are hereby incorporated by reference.

300.15 Order of Approval - Requirements to Comply

It shall be unlawful for an owner or operator of a source or emission unit to not abide by the operating and reporting conditions in the Order of Approval.

Passed: November 12, 1998

Amended: November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.1 Internet Notice

(A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA, and for each proposed revision to an Order of Approval to Construct (OAC) for which there is no associated NOC application. The internet notice shall remain on the NWCAA website for a minimum of 15 consecutive days and shall include the following information:

- (1) name and location of the affected facility,
- (2) brief description of the proposed action, and
- (3) a statement that a public comment period may be requested within 15 days of the initial date of the internet posting.

(B) Requests for a public comment period shall be received by the NWCAA via letter, facsimile, or electronic mail within 15 days of the initial date of the internet posting. A public notice and comment period shall be provided in accordance with this Section, for any NOC application or proposed OAC revision that receives such a request. Any NOC application or proposed OAC revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period.

305.2 Actions Requiring Public Notice and Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with 305.3 through 305.8 of this Section, before approving or denying any of the following types of applications or other actions:

- (1) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2005) as part of review under Section 300 of this Regulation;
- (2) Any order to determine Reasonably Available Control Technology (RACT);
- (3) Any order to establish a compliance schedule or a variance;
- (4) Any order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation;
- (5) Any order to authorize an emissions bubble pursuant to WAC 173-400-120;
- (6) Any regulatory order to establish or debit of emission reduction credits (ERC);
- (7) Any order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit;

(8) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area;

(9) The original issuance and any revisions to a general Order of Approval issued under WAC 173-400-560;

(10) Any Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest;

(11) Any Notice of Construction application or proposed Order of Approval to Construct revision that receives a request for a public comment period in accordance with 305.1 of this Section.

(12) Any Notice of Construction application or proposed Order of Approval to Construct revision that would result in a significant emissions increase defined as follows.

Air Pollutant	Potential to Emit in Tons per Year
Carbon Monoxide (CO)	100.0
Volatile Organic Compounds (VOC)	40.0
Sulfur Dioxide (SO ₂)	40.0
Nitrogen Oxides (NO _x)	40.0
Particulate Matter (PM)	25.0
Fine Particulate Matter (PM-10)	15.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid Mist (H ₂ SO ₄)	7.0
Hydrogen Sulfide (H ₂ S)	10.0
Total Reduced Sulfur (including H ₂ S)	10.0

(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in WAC 173-401.

305.3 Public Comment Period

If required, a public comment period shall be initiated through publication of a legal notice in a local newspaper. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. The cost of providing legal notice shall be borne by the applicant. Public notice of any NOC application requiring a public comment period shall include the following:

(A) The NOC application and any written preliminary determination by the NWCAA shall be available on the NWCAA's internet website, excluding any confidential information as provided in Section 114 of this Regulation. In addition, the NOC application and any written determination shall be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.

(B) Publication of a legal notice in a newspaper of general circulation in the area of the proposed project which provides each of the following:

- (1) Name, location and a brief description of the project;
- (2) Location of documents made available for public inspection;
- (3) The deadline for submitting written comments;
- (4) A statement that any person, interested governmental agency, group, or the applicant may request a public hearing;
- (5) A statement that a public hearing may be held if the NWCAA determines within a 30-day period that significant public interest exists;
- (6) The date of the close of the public comment period in the event of a public hearing;

(C) Notice to the US Environmental Protection Agency Region 10 Regional Administrator.

305.4 Extent of Public Comment Period

The public comment period shall be the 30-day period following the date the public notice is first published, unless a public hearing is held. If a public hearing is held, the public comment period shall extend through the hearing date and thereafter for such period, as specified in the notice of public hearing.

305.5 Public Hearings

Any person, interested governmental entity, group or the applicant, may request a public hearing within the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable. The NWCAA shall provide at least 30 days prior notice of any hearing.

305.6 Consideration of Public Comments

No final decision on any NOC application or OAC revision shall be made until all public comment periods have ended and any comments received have been considered.

305.7 Other Requirements of Law

Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section (e.g., SEPA). This subsection does not apply to an application for a "major modification" or an application from a "major stationary source".

305.8 Public Information.

All information provided to the public in accordance with this Section, except information protected from disclosure under any applicable law, including, but not limited to, NWCAA Section 114 and RCW 70.94.205, shall be available for public inspection at the NWCAA. This includes copies of Notices of Construction applications, orders, and modifications.

Passed: July 14, 2005 Amended: November 8, 2007,
June 9, 2011

AMENDATORY SECTION

SECTION 320 - REGISTRATION PROGRAM

320.1 Program Authority, Applicability and Purpose. As authorized by RCW 70.94.151, the Board, by this Regulation, classifies air contaminant sources which may cause or contribute to air pollution. This classification is made according to levels and types of emissions and other characteristics that cause or contribute to air pollution. The Board requires both registration and reporting for these classes of air contaminant sources. The classifications are made for the entire area of jurisdiction of the NWCAA and are made with special reference to effects on health, economic and social factors, and physical effects on property. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

320.2 Registration and Reporting. Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required, shall register the source with the NWCAA. The owner or operator shall make reports to the NWCAA containing information as may be required by the NWCAA concerning location, size, and height of contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

320.3 Annual Registration Fees. An annual registration fee shall be paid by all registered sources. The Board has determined the fee for each class of air contaminant source to be as shown in Section 324.1. The amount of fees collected shall not exceed the costs of administering this registration program, which shall be defined as:

- a) initial registration and annual or other periodic reports from the source owner or operator providing the information directly related to air pollution registration;
- b) on-site inspections necessary to verify compliance with registration requirements;
- c) data storage and retrieval systems necessary for support of the registration program;
- d) emission inventory reports and emission reduction credits computed from information provided by sources pursuant to the requirements of the registration program;
- e) staff review, including engineering analysis for accuracy and completeness, of information provided by sources pursuant to the requirements of the registration program;
- f) clerical and other office support provided in direct furtherance of the registration program; and
- g) administrative support provided in directly carrying out the registration program.

320.4 Any registered source which does not pay the annual registration fee by the end of the registration period shall be considered a new source and shall submit a "Notice of Construction and Application for Approval" and receive approval from the Board prior to resumption of operation or re-entry into the jurisdiction of the NWCAA.

320.5 Registration Required

320.5.1 Source classification list. The following source categories shall register with the NWCAA:

- a) abrasive blasting operations;
- b) aerosol can-filling facilities;
- c) agricultural chemical facilities engaged in the manufacturing of liquid or dry fertilizers or pesticides;
- d) agricultural drying and dehydrating operations;
- e) alumina processing;
- f) ammonium sulfate manufacturing plants;
- g) any source category subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), Subpart BB (Kraft Pulp Mills), or Subpart AAA (Standards of Performance for New Residential Wood Heaters);
- h) any source category subject to a federal standard under Section 112 of the Federal Clean Air Act (FCAA) other than 40 CFR Part 61 Subpart M;
- i) any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of the FCAA;
- j) any source that has equipment or control equipment, with an approved Notice of Construction from the NWCAA;
- k) any source, stationary source or emission unit with significant emissions;
- l) any source or emission unit from which emissions exceed the threshold levels for toxic air pollutants as specified in Chapter 173-401-531 WAC;
- m) asphalt and asphalt products production facilities, not including asphalt laying equipment;
- n) automobile and light-duty truck surface coating operations;
- o) baker's yeast manufacturing;
- p) brick and clay manufacturing plants, including tiles and ceramics;
- q) casting facilities and foundries, ferrous and nonferrous;
- r) cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growth season;
- s) chemical manufacturing plants;
- t) coal preparation plants;
- u) coffee roasting facilities;
- v) composting operations, including commercial, industrial and municipal, but exempting residential and agricultural composting activities;
- w) concrete product manufacturers and ready mix and premix concrete plants;
- x) crematoria or animal carcass incinerators;
- y) dry cleaning plants;
- z) ethylene dichloride, polyvinyl chloride, or vinyl chloride plants;
- aa) explosives production;
- bb) flexible polyurethane foam production;
- cc) flexible vinyl and urethane coating and printing operations;
- dd) gasoline stations (>200,000 gallons per year) and bulk gasoline plants (>200,000 gallons per year);
- ee) gelcoat, polyester, resin, or vinyl ester coating manufacturing operations at commercial or industrial facilities;
- ff) glass manufacturing plants;
- gg) grain, seed, animal feed, legume, and flour processing operations and handling facilities;
- hh) graphic art systems;
- ii) hay cubers and pelletizers;
- jj) hazardous waste treatment and disposal facilities;
- kk) hospitals, specialty and general medical surgical;
- ll) ink manufacturers;
- mm) insulation fiber manufacturers;
- nn) lead-acid battery manufacturing plants;
- oo) lime manufacturing plants;
- pp) materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;
- qq) meat packing plants;
- rr) metal plating and anodizing operations;
- ss) metallic and nonmetallic mineral processing plants, including rock crushing plants, and sand and gravel operations;
- tt) mills: such as lumber, plywood, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
- uu) mills: wood products (cabinet works, casket works, furniture, wood byproducts);
- vv) mineral wool production;
- ww) mineralogical processing plants;
- xx) municipal waste combustors;
- yy) natural gas transmission and distribution (SIC 4953);
- zz) nitric acid plants;
- bbb) other metallurgical processing plants;
- ccc) paper manufacturers;
- ddd) petroleum refineries;
- eee) pharmaceuticals production;
- fff) plastics and fiberglass product fabrication facilities;
- ggg) pneumatic materials conveying operations and industrial housekeeping vacuuming systems that exhaust more than 1000 acfm to the atmosphere;
- hhh) portland cement plants;
- iii) primary copper smelters, lead smelters, magnesium refining and zinc smelters, but excluding primary aluminum plants;
- jjj) refuse systems including: incinerators, dumps and landfills (active and inactive, including covers, gas collection systems or flares);
- kkk) rendering plants;
- lll) salvage operations (scrap metal, junk);
- mmm) semiconductor manufacturing;
- nnn) shipbuilding and ship repair (surface coating);
- ooo) soil and groundwater remediation projects;
- ppp) soil vapor extraction (active), thermal soil desorption, or groundwater air stripping remediation projects;
- qqq) sulfuric acid plants;
- rrr) surface coating manufacturers;
- sss) surface coating operations including: metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber,

glass, paper and other substrates, excluding surface coating by use of aqueous solution or suspension;

- ttt) synthetic fiber production facilities;
- uuu) tire recapping facilities;
- vvv) utilities (combination of electrical and gas, and other utility services (SIC 4931, 4932, 4939);
- www) vegetable oil production;
- xxx) wastewater treatment plants;
- yyy) wood treatment; and
- zzz) any source, including any listed above, that has been determined through review by the Control Officer to warrant registration, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

320.5.2 Equipment classification list. The owner or operator of the following equipment shall register with the NWCAA:

- a) all natural gas only fired boilers above 10 million Btu per hour input;
- b) chemical concentration evaporators;
- c) degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;
- d) flares utilized to combust any gaseous material;
- e) fuel burning equipment with a heat input of more than one million Btu per hour, except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;
- f) ovens, burn-out or heat-treat;
- g) stationary internal combustion engines and turbines rated at five hundred horsepower or more;
- h) storage tanks, reservoirs, or containers:
 - 1) with a rated capacity greater than 6,000 gallons storing volatile organic liquids, other than petroleum liquids, having a true vapor pressure equal to or greater than 1.5 psia.
 - 2) With a rated capacity greater than 40,000 gallons storing petroleum liquids having a true vapor pressure equal to or greater than 1.5 psia.
- i) vapor collection systems within commercial or industrial facilities;
- j) waste oil burners above 0.5 million Btu heat output; and
- k) woodwaste incinerators.

Passed: November 12, 1998 Amended: November 12, 1999, July 14, 2005, June 9, 2011

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 321 - EXEMPTIONS FROM REGISTRATION

Exclusion from registration does not absolve the owner, lessee, or his registered agent from all other requirements of the Regulation of the NWCAA. Exemption from registration does not apply to any control facility or device required to be

installed in order to meet the emission and/or ambient standards of this Regulation.

The following sources of air pollution are exempt from registration:

321.1 Motor vehicles.

321.2 Non-road engines (as defined in Section 216 of the FCAA).

321.3 Non-road vehicles (as defined in Section 216 of the FCAA).

321.4 Sources that require an air operating permit per Chapter 173-401 WAC.

321.5 The Control Officer may exempt sources having the potential to emit (uncontrolled) criteria air pollutants under the following thresholds:

- a) 5 tons per year of carbon monoxide (CO);
- b) 2 tons per year of nitrogen oxides (NO_x);
- c) 2 tons per year of sulfur dioxide (SO₂);
- d) 1.25 tons per year of particulate matter (PM);
- e) 0.75 tons per year of fine particulate matter (PM₁₀);
- f) 2 tons per year of volatile organic compounds (VOC's);
- g) 0.005 tons per year of lead.

321.6 The Control Officer may exempt sources that do not emit measurable amounts of Class A or Class B toxic air pollutants specified in Chapter 173-460-150 WAC and Chapter 173-460-160 WAC.

PASSED: November 12, 1998 Amended: June 9, 2011

AMENDATORY SECTION

SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)

322.1 Purpose. The purpose of this section is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the Federal Clean Air Act (FCAA) Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation Chapter 173-401 of the Washington Administrative Code (WAC).

322.2 Applicability. The provisions of this section shall apply to all sources within the NWCAA jurisdiction excluding those regulated by the Washington State Department of Ecology Industrial Section subject to the requirements of Section 7661(a) of the FCAA or Chapter 173-401-300 WAC.

322.3 Compliance. It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of Chapter 173-401 WAC without complying with the provisions of Chapter 173-401 WAC and any permit issued under its authority.

322.4 Air Operating Permit Fees.

a) The NWCAA shall levy annual operating permit program fees as set forth in this section to cover the cost of administering its operating permit program.

b) Commencing with the effective date of the operating permit program, the NWCAA shall assess and collect annual air operating permit fees in its jurisdiction for any source

specified in Section 7661(a) of Title V of the FCAA or Chapter 173-401-300 WAC (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWCAA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by a resolution by the Board of Directors. Allocation of the fees to individual affected sources shall be based on the following:

1) Ten percent (10%) of the total fees shall be allocated equally among all affected sources.

2) Ninety percent (90%) of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory or potential emissions if actual data are unavailable. A regulated pollutant for fee calculation shall include:

Nitrogen oxides (NO_x);

Volatile organic compounds (VOC's);

Particulate matter with an aerodynamic particle diameter less than or equal to 10 μ (PM₁₀);

Sulfur dioxide (SO₂);

Lead; and

Any pollutant subject to the requirements under Section 112(b) of the FCAA not included in any of the above categories.

c) Upon assessment by the NWCAA, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under this section within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under this section.

d) The NWCAA shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology to cover the Department of Ecology's program development and oversight costs attributable to subject sources within the NWCAA jurisdiction. Fees for the Department of Ecology shall be allocated to affected sources in the same manner specified in this section.

e) An affected source subject to the operating permit program that is required to pay an annual operating permit program fee shall not be required to pay a registration fee as specified in Section 324.

PASSED: November 12, 1998 Amended: November 12, 1999, June 9, 2011

WSR 11-14-003

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 11-91—Filed June 22, 2011, 1:47 p.m., effective July 23, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Incorporates the recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council to take harvestable numbers of fish in commercial salmon fisheries in Willapa Bay and Grays Harbor while protecting species of fish listed as endangered.

Citation of Existing Rules Affected by this Order: Amending WAC 220-36-023, 220-40-027, and 220-22-020.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 11-08-017 on March 30, 2011, and WSR 11-08-032 on April 1, 2011.

Changes Other than Editing from Proposed to Adopted Version: WAC 232-28-620 was withdrawn on April 1, 2011, and filed as WSR 11-08-031.

In WAC 220-36-023 and 220-40-027, the Washington department of fish and wildlife (WDFW) amended the proposals to require the release of wild coho, wild chinook, and chum. Forecasts of wild coho, wild chinook, and chum are not strong enough to allow significant directed fishing.

In WAC 220-22-020, WDFW amended commercial gillnet boundaries. The North of Falcon/Pacific Fishery Management Council process this year resulted in changes to these boundaries to allow commercial gillnet fishing throughout different times of the season.

The department also withdrew WAC 232-28-620 from this rule proposal. The withdrawal was filed as WSR 11-08-031 on April 1, 2011. This WAC was opened by another filing and not required for this rule proposal.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 3, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 22, 2011.

Philip Anderson

Director

AMENDATORY SECTION (Amending Order 90-05, filed 1/19/90, effective 2/19/90)

WAC 220-22-020 Coast, Willapa Harbor, Grays Harbor Salmon Management and Catch Reporting Areas. (1) **Area 1** shall include those waters (~~of District 1 and the Oregon coast westerly of a line projected from the inshore end of the north Columbia River jetty in the state of Washington to the knuckle of the south Columbia River jetty in the state of Oregon, northerly of a line projected true west from Tillamook Head in Oregon and southerly of a line projected true west from Leadbetter Point in Washington~~) within 3 nautical miles of the Oregon and Washington coasts north of a line projected true west from Tillamook Head (approximate latitude 45.94640 degrees N), westerly of a line projected from the inshore end of the north Columbia River jetty to the knuckle of the south Columbia River jetty, and

south of a line projected true west from Leadbetter Point in Washington along latitude 46.63611 degrees N.

(2) **Area 2** shall include those waters (~~of District 4 northerly of a line projected true west from Leadbetter Point and southerly of a line projected true west from the Queets River mouth~~) within 3 nautical miles of the Washington coast north of Area 1, westerly of a line projected from the southern tip (located at 46.72791 degrees N, 124.05848 degrees W) of the Jacobson Jetty near Washaway Beach due south to Leadbetter Point along longitude 124.05848 degrees W, westerly of a straight line projected from the Point Chehalis light northerly through the Coast Guard lookout tower to the shore near Point Brown, and south of a line projected true west from the Queets River mouth along latitude 47.53856 degrees N.

(3) **Area 2A** shall include those waters of Grays Harbor and the Chehalis River estuary upstream from the (~~Union Pacific Railroad~~) Highway 101 Bridge at Aberdeen to a line projected from the Lakeside Industries asphalt plant tower (located at 46.97908 degrees N, 123.78317 degrees W) at a right angle to the thread of the stream to the opposite shore.

(4) **Area 2B** shall include those waters of Grays Harbor lying easterly of (~~a straight line projected from the Point Chehalis light, located 123 feet above mean high water at Westport, through the Coast Guard look-out tower to the shore near Point Brown~~) **Area 2**, southerly of a line (~~projected~~) running from a fishing boundary marker located at the south end of the eastern jetty at the Ocean Shores Marina, thence to a fishing boundary marker (located at 46.96120 degrees N, 124.05575 degrees W) on Sand Island and thence to the tripod station (~~(at)~~) (located at 46.98528 degrees N, 124.01195 degrees W) on Brackenridge Bluff, westerly of a line projected from the tripod station at Brackenridge Bluff southward (~~and extending~~) through channel marker 8 in the south channel at the mouth of Johns River to the mainland, and northerly of the Bay City Bridge.

(5) **Area 2C** shall include those waters of Grays Harbor northerly (~~of a line projected from a fishing boundary marker at Ocean Shores Marina to a fishing boundary marker on Sand Island to the tripod station at Brackenridge Bluff and westerly of a line starting at a monument located at the point of Holman Bluff near the mouth of Grass Creek and projected to a monument set on Point New, exclusive of those waters within 1/4 mile of a monument set on the beach near the mouth of Chenois Creek and those waters northerly of a line starting at a monument located near the beach in front of the Giles Hogan residence located west of the mouth of the Humptulips River, thence projected in a southeasterly direction to a monument set on the most southerly tip of the grass spit at the mouth of the Humptulips River, thence projected in an easterly direction to a point on Chenois Bluff at 47° 0' 32" N latitude, 124° 1' W longitude~~) of **Area 2B**, westerly of a line crossing the mouth of Grass Creek projected true north and south along longitude 124.01 degrees W, south and west of a line around the mouth of Chenois Creek starting at landfall at latitude 47.02661 degrees N projecting due west to longitude 124.03273 degrees W thence due north to landfall, and southwestly of a line crossing the mouth of the Humptulips River projected westerly from the promontory located at 47.03236 degrees N, 124.04056 degrees W to landfall west-

erly of Campbell Slough at 47.04155 degrees N, 124.08274 degrees W.

(6) **Area 2D** shall include those waters of Grays Harbor and the Chehalis River estuary (~~easterly of a line projected from the tripod station at Brackenridge Bluff southward and through channel marker 8 at the mouth of Johns River in the south channel to the mainland and westerly of the Union Pacific Railroad Bridge in Aberdeen~~) downstream of **Area 2A**, easterly of **Area 2B**, and westerly (downstream) of the Highway 105 Bridge on Johns River.

(7) (~~**Area 2G** shall include those waters of Willapa Harbor northerly of a line projected from Needle Point approximately 305° true to the Island Sands light approximately 2 miles south of Riddle Spit light No. 10 and thence true west to the North Beach Peninsula, westerly of a line projected from Needle Point northerly to day beacon No. 14 and thence to Ramsey Point, outside and westerly of a line projected from Stony Point to the Bay Center Channel light (F1 4 seconds, 16 feet) to the northern tip of Goose Point, downstream and westerly of a line projected 235 degrees true from the north shore of the Willapa River through Willapa River light number 33 to the south shore, outside and southerly of a line commencing at a boundary marker on the west shore of the North River projected 82 degrees true through channel marker No. 16 to a boundary marker on the east shore, outside and southerly of a line projected from the Cedar River's meander corner between Section 31, Township 15N, and Section 6, Township 14N, Range 10W, W.M., to the meander corner between Sections 36, Township 15N, and Section 1, Township 14N, Range 11W, W.M., and inside and easterly of a straight line projected from the Cape Shoalwater light through buoy 8A, located between buoy 8 and buoy 10, approximately 1,500 yards from Cape Shoalwater light on a line 171° true, to Leadbetter Point.~~)

(8) ~~**Area 2H** shall include those waters of Willapa Harbor and the Willapa River estuary easterly of Area 2G and downstream from a line projected true north from the Standard Oil dock in South Bend to the opposite shore of the Willapa River.~~

(9) **Area 2J** shall include those waters of Willapa Harbor lying southerly and westerly of a line projected from Diamond Point to the Island Sands light, approximately 2 miles south of Riddle Spit light No. 10, and thence due west to the North Beach Peninsula, and northerly of a line projected true east-west through marker 20 between Long Island and the North Beach Peninsula.

(10) **Area 2K** shall include those waters of Willapa Harbor easterly of a line projected from the northern tip of Goose Point to the Bay Center Channel light (F1 4 seconds, 16 feet) to Stony Point and westerly of the Palix River Highway 101 Bridge.

(11) **Area 2M** shall include those waters of Willapa Harbor lying southerly and easterly of a line projected from Needle Point approximately 285° true to the Island Sands light, approximately 2 miles south of Riddle Spit light No. 10, and south to Diamond Point, downstream and westerly of the Highway 101 Bridge over the Naselle River, and northerly and easterly of a line from Stanley Point to Paradise Point.

(12) **Area 2K** shall include those waters of Willapa Harbor easterly of a line running from the northern tip of

Goose Point to the Bay Center Channel light (Fl G 4s 18ft) thence to the western tip of Stony Point, and westerly of the Highway 101 bridges over the Palix and Niawiakum rivers.

(8) Area 2M shall include those waters of Willapa Harbor lying southeasterly of a line running from Needle Point northwesterly to the Island Sands light (Fl 2+1 G 6s 15ft, located at 46.53860 degrees N, 123.97654 degrees W) thence southerly to Diamond Point, northerly and easterly of a line from Stanley Point to Paradise Point, and downstream and northwesterly of the Highway 101 Bridge over the Naselle River.

(9) Area 2N shall include those waters of Willapa Harbor lying south of a line projected due west from the northern tip of Goose Point to landfall on Leadbetter Point along latitude 46.63667 degrees N, northwesterly of a line projected from Needle Point 60 degrees true to landfall north of the North Nemah River at 46.52223 degrees N, 123.89603 degrees W, northerly of Area 2M and a line projected from the Island Sands light thence due west to landfall on the North Beach Peninsula.

(10) Area 2P shall include those waters of Willapa Harbor lying inside and southerly of a line projected from Diamond Point westerly through Marker 2 (Fl R 4s 15ft, located at 46.50165 degrees N, 124.02382 degrees W) at the Nahcotta Boat Basin (RF#2) thence southerly to the north end of the boat basin jetty, and northerly of a line projected true west from High Point (approximate latitude 47.40951 degrees N) to landfall on the North Beach Peninsula.

(11) Area 2R shall include those waters of Willapa Harbor lying westerly and southerly of Areas 2M and 2N, and northerly of a line projected from Diamond Point westerly through Marker 2 at the Nahcotta Boat Basin to landfall on the North Beach Peninsula.

(12) Area 2T shall include those waters of Willapa Harbor easterly of Area 2, northerly of Areas 2K and 2N, west of a line projecting true north and south through Range Marker "B" (located at 46.70938 degrees N, 123.85501 degrees W), southerly of a line running true west and east through a North River Channel marker located at 46.73510 degrees N, 123.911906 degrees W, and easterly of a line projected true north from Marker 3 (located at 46.70725 degrees N, 123.96608 degrees W) at the Tokeland Boat basin to landfall east of the Cedar River.

(13) Area 2U shall include those waters of Willapa Harbor and the Willapa River estuary easterly of Area 2T, downstream and westerly from the Hwy 101 Bridge in Raymond, and excluding all waters of the South Fork Willapa River above a line at its mouth projected from the Weyerhaeuser chimney (located at 46.68927 degrees N, 123.74121 degrees W) southwesterly at a right angle to the thread of the stream to the opposite shore.

(14) Area 3 shall include those waters ((of District 1 northerly of a line projected true west from the Queets River mouth and southerly)) within 3 nautical miles of the Washington coast north of Area 2 and south of a line projected true west from Cape Alava along latitude 48.16667 degrees N.

((13)) (15) Area 4 shall include those waters ((of District 1 northerly of a line projected true west from Cape Alava)) within 3 nautical miles of the Washington coast north of Area 3, westerly of a line((s)) projected from the northern

tip of Portage Head to the southern tip of Waatch Point, and ((from)) westerly of the Bonilla-Tatoosh ((Island light to Bonilla Point and southerly of a line projected true west from the intersection of the Bonilla-Tatoosh line with the U.S.-Canada International Boundary)) Line (WAC 220-16-490).

((14)) (16) Area 4A shall include those waters easterly and inside of a line projected from the northern tip of Portage Head to the southern tip of Waatch Point, outside and westerly of the mouth of any river or stream flowing to the sea.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 09-108, filed 5/27/10, effective 6/27/10)

WAC 220-36-023 Salmon—Grays Harbor fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

(1) Gill net gear may be used to fish for salmon and white sturgeon only according to the chart below. All nonlegal sturgeon, all steelhead, and all other species including Chinook, coho, chum and white sturgeon must be handled with care to minimize injury and must be released immediately to the river/bay:

Time:	Areas:
((6:00 p.m. August 31 through 6:00 p.m. September 1, 2010;	Area 2C
6:00 p.m. September 2 through 6:00 a.m. September 4, 2010;	
6:00 p.m. September 6 through 6:00 a.m. September 8, 2010;	
6:00 p.m. September 9 through 6:00 p.m. September 11, 2010;	
6:00 p.m. September 22 through 6:00 p.m. September 23, 2010;	
AND	
6:00 p.m. September 27 through 6:00 p.m. September 28, 2010.	
7:00 a.m. October 8 through 7:00 p.m. October 8, 2010;	That portion of Area 2A upstream from the Highway 101 Bridge at Aberdeen, to a line projected from the Lake-side Industries asphalt plant tower at a right angle to the thread of the stream to the opposite shore.
AND	
7:30 a.m. October 14 through 7:30 p.m. October 14, 2010.	That portion of Area 2D lying easterly of a north-south line from the confluence of the Hoquiam and Chehalis rivers to Renney Island, then easterly to Range Marker G, then to the eastern boundary of Area 2D at the Highway 101 Bridge.)
6:00 p.m. August 18 through 6:00 p.m. August 19, 2011;	Area 2C

Time:

6:00 p.m. August 21 through 6:00 p.m. August 22, 2011;

6:00 p.m. August 25 through 6:00 p.m. August 26, 2011;

6:00 p.m. August 28 through 6:00 p.m. August 29, 2011;

6:00 p.m. September 1 through 6:00 p.m. September 2, 2011;

6:00 p.m. September 7 through 6:00 p.m. September 8, 2011;

6:00 p.m. September 11 through 6:00 p.m. September 12, 2011;

6:00 p.m. September 15 through 6:00 p.m. September 16, 2011;

9:30 a.m. October 24 through 7:30 p.m. October 24, 2011;

AND

5:00 a.m. October 25 through 3:00 p.m. October 25, 2011.

9:00 a.m. October 8 through 7:00 p.m. October 8, 2011;

7:00 a.m. October 12 through 5:00 p.m. October 12, 2011;

AND

8:30 a.m. October 18 through 6:30 p.m. October 18, 2011;

8:30 a.m. October 23 through 6:30 p.m. October 23, 2011;

AND

7:30 a.m. October 28 through 4:30 p.m. October 28, 2011.

Areas:

Area 2A shall include those waters of Grays Harbor and the Chehalis River estuary upstream from the Highway 101 Bridge at Aberdeen to a line projected from the Lake-side Industries asphalt plant tower at a right angle to the thread of the stream to the opposite shore;

AND

That portion of Area 2D lying easterly of a north-south line from the confluence of the Hoquiam and Chehalis rivers to Renney Island, then easterly to "Range Marker G," located on the south shore of Grays Harbor, then to the eastern boundary of Area 2D at the Highway 101 Bridge.

AND

Area 2A shall include those waters of Grays Harbor and the Chehalis River estuary upstream from the Highway 101 Bridge at Aberdeen to a line projected from the Lake-side Industries asphalt plant tower at a right angle to the thread of the stream to the opposite shore;

AND

Area 2D.

Gear

(2) Gill net gear restrictions: All areas:

(a) Drift gill net gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

Nets with a mesh size different from that being actively fished must be properly stored. A properly stored net is

defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

It is unlawful to use a gill net to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line, provided that it is lawful to have a gill net with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or in transiting through Grays Harbor.

(b) From August 16 through September 30, 2011: In Area 2C, mesh size must not exceed seven and one-half inch minimum to nine-inch maximum (~~(mesh)~~).

From October 1 through October 22, 2011: In Areas 2A and 2D, mesh size must not exceed six-inch maximum (~~(mesh)~~). Nets may be no more than fifty-five meshes deep. Nets must hang straight from top to the bottom. Strings may only be used to secure breakaway panels.

From October 23 through October 31, 2011: In Areas 2A and 2D mesh size must not exceed six and one-half inch maximum.

From October 24 through October 31, 2011: In Area 2C mesh size must not exceed nine-inch maximum.

(c) (~~(Entire nets must be single mesh size-)~~) Only one net may be fished at a time; other nets must be properly stored.

(d) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water.

(e) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing Areas 2A, (~~(2D))~~ 2C, and (~~(2C))~~ 2D. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(f) Releases:

(i) All wild (unmarked) coho, nonlegal sturgeon, (~~(chum,)~~) and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Area 2C.

(ii) All (~~(wild (unmarked))~~) Chinook, nonlegal sturgeon, (~~(chum,)~~) and all steelhead must be handled with care to min-

imize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing Areas 2A and 2D.

(g) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay.

(h) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

Other

(3) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(12), reports must be made by 10:00 a.m. the day following landing.

(4) Fishers must take department observers if requested by department staff when participating in these openings. Pursuant to WAC 220-69-240, fishers also must provide notice of intent to participate by contacting Quick Reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on August ~~((20,2010)) 14, 2011~~, for ~~((the openings in Area 2C and prior to 12:00 p.m. October 1, 2010, for the openings in Area 2A and 2D))~~ August and September openings and prior to 12:00 p.m. on October 18 for the October openings in Area 2C. Notice of intent must be given prior to 12:00 p.m. October 4, 2011, for the openings in Areas 2A and 2D.

~~((NOAA Fisheries has listed the southern population of green sturgeon as threatened under the Endangered Species Act, effective July 6, 2006. Most of the green sturgeon taken in Washington fisheries are from the Columbia River stock, which is part of the southern population. Therefore,))~~ The retention of green sturgeon is prohibited ~~((to protect this federally listed stock)).~~

(6) It is unlawful to fish for salmon with gill net gear in Areas 2A, 2C, and 2D unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession a department-issued certification card.

AMENDATORY SECTION (Amending Order 09-108, filed 5/27/10, effective 6/27/10)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

(1) Gill net gear may be used to fish for salmon and white sturgeon only as shown below. All nonlegal sturgeon, all steelhead, and all other species including Chinook, coho, chum and white sturgeon, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay:

Time:

~~((6:00 p.m. August 15 through 6:00 p.m. August 16, 2010.~~

~~6:00 p.m. September 22 through 6:00 p.m. September 23, 2010;~~

AND

~~6:00 p.m. September 27 through 6:00 p.m. September 28, 2010.~~

~~6:00 p.m. September 12 through 5:59 p.m. September 15, 2010.~~

Area:

~~**Areas 2G** east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, except:~~

~~**Closed Waters Area (Net-Free Zone):** That portion of SMCRA 2G lying within the following boundary lines, **Western Boundary:** Those waters east of a line drawn from the most waterward exposed end of the jetty at Toke Point (46°42.446'N, 123°57.973'W) to Willapa Marker 2 (46°41.529'N, 123°57.973'W) then 180 degrees true to Goose Point (46°38.184'N, 123°57.584'W). **Eastern boundary** that includes those waters west of a North-South line through Marker 29.~~

~~**Area 2H** west of Willapa Channel Marker 40, **Area 2J** north of a true east-west line drawn through the North Entrance Marker to the Naheotta Boat Basin (RF #2), and **Area 2M.**~~

~~**Area 2K**~~

~~**Areas 2G** east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, except:~~

Time:

Area:

~~**Closed Waters Area (Net Free Zone):** That portion of the SMCRA 2G lying within the following boundary lines. Western Boundary:— Those waters east of a line drawn from the most waterward exposed end of the jetty at Toke Point (46°42.446'N, 123°57.973'W) to Willapa Marker 2 (46°41.529'N, 123°57.973'W) then 180 degrees true to Goose Point (46°38.184'N, 123°57.584'W). Eastern boundary that includes those waters west of a North-South line (180 degrees true) through Range Marker "B" (46°42.564'N, 123°51.3'W) between Channel Markers 26 and 28.~~

~~**Area 2H** west of Willapa Channel Marker 40, **Area 2J** north of a true east-west line drawn through the North Entrance Marker to the Naheotta Boat Basin (RF #2), and **Area 2M**.~~

~~**Areas 2G** east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, **Area 2H** west of Willapa Channel Marker 40, **Area 2J** north of a true east-west line drawn through the North Entrance Marker to the Naheotta Boat Basin (RF #2), and **Area 2M**.~~

~~**Areas 2G** east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, **Area 2H**, **Area 2J** north of a true east-west line drawn through the North Entrance Marker to the Naheotta Boat Basin (RF #2), and **Area 2M**.~~

6:00 p.m. September 15 through 6:00 p.m. September 22, 2010.

6:01 p.m. September 22 through 6:00 p.m. September 30, 2010.

Time:

6:00 p.m. October 1, 2010, through 6:00 p.m. October 2, 2010.

12:00 p.m. November 6 through 12:00 p.m. November 30, 2010.

6:00 p.m. August 29 through 6:00 a.m. August 30, 2011;

AND

6:00 p.m. August 31 through 6:00 a.m. September 1, 2011.

6:00 p.m. September 6 through 6:00 a.m. September 7, 2011;

AND

6:00 p.m. September 8 through 6:00 a.m. September 9, 2011.

6:00 p.m. September 13 through 6:00 p.m. September 22, 2011.

6:00 p.m. September 21 through 6:00 p.m. September 22, 2011;

AND

6:00 p.m. September 28 through 6:00 p.m. September 29, 2011.

6:00 p.m. September 24 through 6:00 p.m. September 30, 2011;

6:00 p.m. October 2 through 6:00 p.m. October 7, 2011;

6:00 p.m. October 10 through 6:00 p.m. October 14, 2011;

AND

12:00 p.m. November 6 through 12:00 p.m. November 30, 2011.

Area:

~~**Areas 2G** east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach,~~

~~**Area 2H**, **Area 2J** north of a true east-west line drawn through the North Entrance Marker to the Naheotta Boat Basin (RF #2), and **Area 2M**.~~

~~**Areas 2G, 2H, 2J, and 2M**.)~~

Area 2N and **Area 2U**

Area 2N, **Area 2R**, and **Area 2U**

Area 2M, **Area 2N**, **Area 2R**, **Area 2T**, and **Area 2U**

Area 2K

Area 2M, **Area 2N**, **Area 2R**, **Area 2T**, and **Area 2U**

~~((2))~~ The Tokeland Boat basin is closed to commercial fishing during the openings in Salmon Management and Catch Reporting Area (SMCRA) 2G, described in this section. The Tokeland Boat basin is that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall, and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-seconds), to Tokeland Channel Marker "4," to the tip of the seawall.))

Gear:

~~((3))~~ (2) Gill net gear restrictions - All areas:

(a) Drift gill net gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

Nets with a mesh size different from that being actively fished must be properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

It is unlawful to use a gill net to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line, provided that it is lawful to have a gill net with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or in transiting through Willapa Bay.

(b) From August 16 through ~~((August 31, 2010))~~ September 12, 2011: Mesh size must not exceed ~~((six-inch minimum mesh to))~~ nine-inch maximum mesh.

(c) From September ~~((4))~~ 13 through ~~((6:00 p.m.))~~ September ~~((22, 2010))~~ 23, 2011: Mesh size must not exceed six-inch maximum mesh.

(d) From ~~((6:01 p.m.))~~ September ~~((22))~~ 24 through October ~~((15, 2010))~~ 31, 2011: Mesh size must not exceed six and one-half inch maximum mesh.

(e) From November 6 through November 30, ~~((2010))~~ 2011: Mesh size must not exceed nine-inch minimum mesh, except from 6:00 p.m. November 11 through 6:00 p.m. November 19, 2011 (coho directed), there are two alternatives:

(i) Use six and one-half inch maximum mesh; or

(ii) Use nine-inch minimum mesh.

Only one net of either six and one-half inch or nine-inch configuration, not exceeding fifteen hundred feet, may be used when in the act of fishing.

(f) Only one net may be fished at a time; other nets must be properly stored.

(g) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas ~~((2G, 2H, 2J, 2K, and 2M))~~ 2K, 2M, 2N, 2R, 2T, and 2U from August 16 through October 31, 2011. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches, the inside width measure-

ments must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(h) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water.

(i) From August 16 through September 30, ~~((2010))~~ 2011, all ~~((wild (unmarked) coho,))~~ wild (unmarked) Chinook, nonlegal sturgeon and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Willapa Bay Areas ~~((2G, 2H, 2J, 2K, and 2M))~~ 2K, 2M, 2N, 2R, 2T, and 2U.

From October 1 through October ~~((15, 2010))~~ 31, 2011, all wild (unmarked) ~~((coho))~~ Chinook, chum, nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Willapa Bay Areas ~~((2G, 2H, 2J, 2K, and 2M))~~ 2K, 2M, 2N, 2R, 2T, and 2U.

From November 6 through November 30, 2011, all non-legal sturgeon and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay when fishing in Willapa Bay Areas 2K, 2M, 2N, 2R, 2T, and 2U.

(j) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay.

(k) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

Other:

~~((4))~~ (3) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(12), reports must be made by 10:00 a.m. the day following landing.

~~((5))~~ NOAA Fisheries has listed the southern population of green sturgeon as threatened under the Endangered Species Act, effective July 6, 2006. Most of the green sturgeon taken in Washington fisheries are from the Columbia River stock, which is part of the southern population. Therefore,)) (4) The retention of green sturgeon is prohibited~~((; to protect this federally listed stock)).~~

~~((6))~~ (5) It is unlawful to fish ~~((for salmon))~~ with gill net gear in Areas ~~((2G, 2H, 2J, 2K, and 2M))~~ 2K, 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and ~~((is))~~ has in their possession ~~((of))~~ a department-issued certification card.

WSR 11-14-026
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed June 24, 2011, 2:24 p.m., effective July 25, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-940 WAC, the adopted rules implement ESSB 5403 (chapter 70, Laws of 2007) codified as chapter 18.240 RCW. The rules establish the education, examination, and practice requirements for individuals who only practice animal massage. The rules do not apply to licensed health care providers whose scope of practice already allows for the practice of animal massage. ESSB 6444 (chapter 37, Laws of 2010) authorized the secretary to set the animal massage practitioner fees.

Statutory Authority for Adoption: RCW 18.240.050.

Adopted under notice filed as WSR 11-07-088 on March 22, 2011.

A final cost-benefit analysis is available by contacting Judy Haenke, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4947, fax (360) 236-2901, e-mail judy.haenke@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 12, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 12, Amended 0, Repealed 0.

Date Adopted: June 24, 2011.

Mary C. Selecky
Secretary

Chapter 246-940 WAC

CERTIFIED ANIMAL MASSAGE PRACTITIONER

NEW SECTION

WAC 246-940-005 Definitions. The definitions in this section apply throughout the chapter unless the context clearly requires otherwise.

(1) "Client" means the owner of the animal or the owner's agent.

(2) "Department" means the department of health.

(3) "Didactic instruction" means instructor led classroom instruction.

(4) "Distance learning" includes instruction completed through written correspondence courses, video instruction, or provided electronically through web-based instruction.

(5) "Large animals" includes equine, food animals, camels-ruminants, nonruminants, and large exotics.

(6) "Client information form" means a form provided to the large or small animal's client informing them of the practitioner's scope of practice and qualifications.

(7) "Practical or hands-on instruction" means in-person instruction, or demonstration under the direction of a qualified instructor.

(8) "Secretary" means the secretary of the department of health.

(9) "Small animals" includes cats, dogs, pocket pets, avian and small exotics.

NEW SECTION

WAC 246-940-010 Scope of practice. (1) A certified animal massage practitioner is an individual who provides external manipulation or pressure of soft tissues by use of the hands, body, or device designed and limited to providing massage. Animal massage may include techniques such as stroking, percussions, compressions, friction, Swedish gymnastics or movements, gliding, kneading, range of motion or stretching, and fascial or connective tissue stretching, with or without the aid of superficial heat, cold, water, lubricants, or salts.

(2) A certified animal massage practitioner may not diagnose, prognose, or treat diseases, deformities, defects, wounds, or injuries of animals; attempt to adjust or manipulate any articulations of the animal's body or spine or mobilization of these articulations by the use of a thrusting force; perform acupuncture involving the use of needles; or perform mechanical therapies that are restricted to the field of veterinary medicine.

(3) A certified animal massage practitioner may provide animal massage solely for purposes of the animal's well-being.

NEW SECTION

WAC 246-940-020 Certification requirements. To qualify for certification, a candidate must:

(1) Successfully complete a three hundred hour training program approved by the secretary, that includes instruction in general animal massage techniques, kinesiology, anatomy, physiology, behavior, first-aid care and handling techniques:

(a) To practice animal massage on large animals, the three hundred hours of instruction must be related to the performance of animal massage on large animals;

(b) To practice animal massage on small animals, the three hundred hours of instruction must be related to the performance of animal massage on small animals;

(c) For certification in both small animal massage and large animal massage, the candidate must complete the training described in (a) and (b) of this subsection.

(2) Successfully complete a qualifying examination approved by the secretary:

(a) To practice animal massage on large animals, successfully complete the National Certification Examination for Equine Massage administered by the National Board of Certification for Animal Acupressure and Massage;

(b) To practice animal massage on small animals, successfully complete the National Certification Examination

for Canine Massage administered by the National Board of Certification for Animal Acupressure and Massage.

(c) Candidates seeking certification in both small animal massage and large animal massage must meet all requirements in (a) and (b) of this subsection.

(3) Successfully complete the Washington state animal massage jurisprudence examination; and

(4) Complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

NEW SECTION

WAC 246-940-030 Washington state animal massage jurisprudence examination. (1) The Washington state animal massage jurisprudence examination consists of multiple choice questions relating to state laws and administrative regulations in the practice of animal massage.

(2) The passing score on the examination is ninety percent.

(3) An applicant who does not successfully complete the examination may request to retake the examination by submitting a written request to the department.

NEW SECTION

WAC 246-940-040 Application requirements. An applicant for certification as an animal massage practitioner shall submit or cause to be submitted to the department:

(1) A completed application and fee;

(2) Proof of successful completion of the training required in WAC 246-940-050 received directly from the program where the applicant completed the training;

(3) Proof of successful completion of a certification examination required in WAC 246-940-020;

(4) Proof of successful completion of the Washington state jurisprudence examination as required in WAC 246-940-020;

(5) Verification of four clock hours of AIDS education as required in WAC 246-940-020;

(6) Verification from all states in which the applicant holds or has held a credential to practice animal massage, indicating that the applicant has or has not been subject to charges or disciplinary action for unprofessional conduct or impairment; and

(7) Additional documentation as required by the secretary to determine whether an applicant is qualified for certification.

NEW SECTION

WAC 246-940-050 Approval of animal massage practitioner educational programs. (1) The secretary recognizes as approved those animal massage programs that:

(a) Are accredited by a recognized regional or state accrediting body or vocational or technical accrediting body; and

(b) Meet the requirements of subsection (3)(a) through (f) of this section.

(2) Methods of instruction may include didactic instruction, distance learning, and practical or hands-on instruction.

(3) Approved animal massage programs must include a minimum of three hundred hours of instruction related to either large animals or small animals as follows:

(a) A minimum of seventy-five hours of instruction in general animal massage techniques. At least thirty-five of those hours must be practical or hands-on instruction. The instruction must include, but not be limited to, the following subjects:

(i) Technique:

(A) Stroking including effleurage, and gliding;

(B) Percussions, including tapotement;

(C) Compressions;

(D) Friction, including rubbing, and gliding with pressure;

(E) Swedish gymnastics or movements;

(F) Kneading;

(G) Range of motion or stretching;

(H) Fascial or connective tissue stretching;

(ii) Contraindications in zoonotic diseases;

(iii) Documentation and recordkeeping;

(iv) Physiological benefits;

(v) Palpation; and

(vi) Body mechanics of the practitioner.

(b) A minimum of sixty hours of instruction in kinesiology. At least twenty-one of those hours must be practical or hands-on instruction. The instruction must include the following subjects:

(i) Biomechanics, including range of motion, gait analysis, and muscle actions;

(ii) Conformation analysis; and

(iii) Observation.

(c) A minimum of seventy-five hours of instruction in anatomy and physiology. At least twenty-one of those hours must be practical or hands-on instruction.

(i) The instruction in anatomy and physiology must include the function and structure of the following systems:

(A) Skeletal system;

(B) Muscular system;

(C) Nervous system;

(D) Digestive system; and

(E) Circulatory system.

(ii) The instruction in anatomy and physiology must include the relationship and effect of massage on the following systems:

(A) Endocrine system;

(B) Integumentary; and

(C) Fascial anatomy.

(d) A minimum of seventy-five hours of instruction in animal behavior and handling. At least twenty-one of those hours must be practical or hands-on instruction. The instruction must include the following subjects:

(i) Breed characteristics;

(ii) Body language;

(iii) Social dynamics;

(iv) Signs of stress;

(v) Communication;

(vi) Methods of restraints;

(vii) Situations with specially trained animals; and

(viii) Environment.

(e) A minimum of ten hours of instruction in business practices. The instruction must include the following subjects:

- (i) Ethics;
- (ii) File management;
- (iii) Documentation of care;
- (iv) Liability; and
- (v) Multicultural education as described in RCW 43.70.-615.

(f) A minimum of five hours of instruction in first aid. At least two of those hours must be practical or hands-on instruction. The instruction must include the following subjects:

- (i) Vitals, including respiration, pulse, heart rate, temperature, and capillary refill;
- (ii) Recognizing emergencies;
- (iii) Emergency first-aid care;
- (iv) Hydration test; and
- (v) Ethics and responsibilities.

NEW SECTION

WAC 246-940-060 Client information form. The information form is to advise the client of the practitioner's qualifications and authorized scope of practice. The following information must be furnished to the client in writing prior to or at the time of the initial visit and signed by the client.

- (1) Practitioner's qualifications, including:
 - (a) Education; and
 - (b) State certification number and date of issue.
- (2) A statement that the practitioner is limited to providing massage solely for purposes of animal well-being.
- (3) A statement that the practitioner may not:
 - (a) Diagnose, prognose, or treat diseases, deformities, defects, wounds, or injuries;
 - (b) Adjust or manipulate any articulations of the animal's body or spine;
 - (c) Perform acupuncture; or
 - (d) Perform mechanical therapies that are restricted to the field of veterinary medicine.
- (4) A copy of the signed information form must be maintained in the animal's record.

NEW SECTION

WAC 246-940-070 Display of certification. (1) Certified as animal massage practitioners who practice in this state shall display their certification at all times, in a conspicuous place within their primary place of practice.

(2) Practitioners must keep a copy of their certification with them when practicing at locations other than their primary place of practice.

NEW SECTION

WAC 246-940-080 Maintenance and retention of records. (1) Every certified animal massage practitioner shall maintain written records of all animal massage services he or she provides.

- (2) A separate record shall be kept for each animal.

(3) All records shall be legible, readily retrievable and shall be kept for a period of three years following the last treatment.

(4) The records shall include, but not be limited to, the following:

- (a) Name, address, and telephone number of the client;
- (b) Name or other identification of the animal;
- (c) Description of the animal's condition and the nature of the massage services provided;
- (d) The client information form;
- (e) If the certified animal massage practitioner suspects that the animal has an injury or condition that may require veterinary care, he or she must advise the client and make a notation in the animal's record.

NEW SECTION

WAC 246-940-090 Expired certification. (1) If the certification has expired, the animal massage practitioner must meet the requirements of WAC 246-12-040.

(2) If the certification has expired for more than five years, the animal massage practitioner must also submit verification of active practice in any other state or jurisdiction, or retake and successfully pass the examinations required in WAC 246-940-020. For the purpose of this section, active practice means at least two hundred hours of practice in each of the previous three years.

NEW SECTION

WAC 246-940-100 Nonaccredited education. (1) Applicants who have not completed an accredited program as required in WAC 246-940-050 (1)(a) may submit proof of instruction from a nonaccredited program.

(2) Proof of instruction submitted under this section must include three hundred hours of instruction related to either large animals or small animals and must include the content areas described in WAC 246-940-050 (3)(a) through (f).

(3) The applicant must meet all certification requirements except the training may be from a nonaccredited program.

(4) Applications under this section must be submitted by December 31, 2011, including all supporting documentation.

NEW SECTION

WAC 246-940-990 Certified animal massage practitioner—Fees and renewal cycle. (1) Certification must be renewed every year on or before the animal massage practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for certification:

Title of Fee	Fee
Application for large animal certification	\$200.00
Application for small animal certification	200.00
Renewal of certification for large animal certification	150.00
Renewal of certification for small animal certification	150.00

Title of Fee	Fee
Late renewal penalty fee per certification	75.00
Expired credential reissuance fee per certification	75.00
Duplicate credential per certification	30.00
Certification of credential per certification	30.00

WAC 461-12-030	Public records available.
WAC 461-12-031	Membership, function and jurisdiction.
WAC 461-12-032	Administration of the board.
WAC 461-12-033	Meetings of the board.
WAC 461-12-034	Quorum.
WAC 461-12-036	Communications with the board.
WAC 461-12-040	Public records officer.
WAC 461-12-050	Office hours.
WAC 461-12-060	Requests for public records.
WAC 461-12-070	Copying.
WAC 461-12-080	Exemptions.
WAC 461-12-090	Review of denials of public records requests.
WAC 461-12-100	Protection of public records.
WAC 461-12-110	Records index.
WAC 461-12-120	Communications with the board.
WAC 461-12-130	Adoption of form.

WSR 11-14-032
PERMANENT RULES
ENVIRONMENTAL HEARINGS OFFICE
 (Shorelines Hearings Board)

[Filed June 27, 2011, 11:42 a.m., effective July 28, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The environmental hearings office (shorelines hearings board) (EHO and SHB) is repealing chapter 461-12 WAC, Practice and procedure—Public records. These rules, which have not been updated since 1981, have been inadvertently replaced and duplicated, without their repeal, by WAC 461-08-315 through 461-08-330 (the SHB practice and procedural rules regarding board administration and jurisdiction) and chapter 198-12 WAC, The environmental hearings office disclosure of public records—Public meetings.

Citation of Existing Rules Affected by this Order: Repealing chapter 461-12 WAC.

Statutory Authority for Adoption: This is a repeal of rules.

Adopted under notice filed as WSR 11-09-034 on April 14, 201 [2011].

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 18.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 27, 2011.

Andrea McNamara Doyle
 Agency Director
 Shorelines Hearings Board Chair

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 461-12-010	Purpose.
WAC 461-12-020	Definitions.

WSR 11-14-038
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed June 28, 2011, 9:26 a.m., effective August 15, 2011]

Effective Date of Rule: August 15, 2011.

Purpose: WAC 246-853-990 Osteopathic fees and renewal cycle, the adopted rules reduce fees for osteopathic physicians and osteopathic physician assistants. RCW 43.70.250 requires that each profession is self-supporting and directs the department to collect fees to pay the costs to regulate the profession. The osteopathic profession has demonstrated a reduction in the costs to administer the profession making it possible to reduce fees.

Citation of Existing Rules Affected by this Order: Amending WAC 246-853-990.

Statutory Authority for Adoption: RCW 43.70.250, 43.70.110.

Adopted under notice filed as WSR 11-09-085 on April 20, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 24, 2011.

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-853-990 Osteopathic fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except postgraduate training limited licenses. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) Postgraduate training limited licenses must be renewed every year to correspond to program dates. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(3) The following nonrefundable fees will be charged for osteopathic physicians:

Title of Fee	Fee
Endorsement application	\$(800.00) <u>600.00</u>
Active license renewal	((750.00)) <u>600.00</u>
Active late renewal penalty	((300.00)) <u>250.00</u>
Inactive license renewal	((500.00)) <u>350.00</u>
Expired inactive license reissuance	225.00
Inactive late renewal penalty	((250.00)) <u>175.00</u>
Endorsement/state exam application	((900.00)) <u>500.00</u>
Reexam	100.00

Title of Fee	Fee
Certification of license	50.00
Limited license application	((350.00)) <u>325.00</u>
Limited license renewal	((325.00)) <u>300.00</u>
Temporary permit application	70.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00
UW ((library)) on-line access fee <u>(HEAL-WA)</u>	25.00

~~((5))~~ (4) The following nonrefundable fees will be charged for osteopathic physician assistants:

Title of Fee	Fee
Application	((300.00)) <u>\$250.00</u>
Renewal	((325.00)) <u>250.00</u>
Late renewal penalty	((462.50)) <u>150.00</u>
Expired license reissuance	100.00
Certification of license	30.00
Practice plan	70.00
Interim permit	200.00
License after exam	100.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00
UW ((library)) on-line access fee <u>(HEAL-WA)</u>	25.00

WSR 11-14-051

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed June 29, 2011, 11:57 a.m., effective July 1, 2011]

Effective Date of Rule: July 1, 2011.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The stumpage values provided in this rule are required by statute (RCW 84.33.091) to be effective on July 1, 2011.

Purpose: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. WAC 458-40-660 is being amended to provide the stumpage values to be used during the second half of 2011.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660 Timber excise tax—Stumpage values.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 11-11-096 on May 18, 2011.

Changes Other than Editing from Proposed to Adopted Version: The following changes have been made:

- The rule being adopted provides a \$5 domestic market adjustment (DMA), which will apply to Stumpage Value Areas 1-5 and 10. The DMA in the proposed rule was \$0.
- The stumpage values for Douglas Fir and Western Hemlock have been increased by \$0.90 per million board feet for Stumpage Value Areas 1-5 and 10.

A final cost-benefit analysis is available by contacting Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1574, e-mail markbohe@dor.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 29, 2011.

Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-02-014, filed 12/29/10, effective 1/1/11)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ~~((January))~~ July 1 through ~~((June 30))~~ December 31, 2011:

**((TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 2011**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$312	\$305	\$298	\$291	\$284
		2	312	305	298	291	284
		3	312	305	298	291	284
		4	312	305	298	291	284
Western Redcedar ⁽²⁾	RC	1	567	560	553	546	539
Western Hemlock ⁽³⁾	WH	1	286	279	272	265	258
		2	286	279	272	265	258
		3	286	279	272	265	258
		4	286	279	272	265	258
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood ⁽⁴⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Alaska Cedar.
⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
⁽⁴⁾ Stumpage value per ton.
⁽⁵⁾ Stumpage value per cord.
⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2**
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$327	\$320	\$313	\$306	\$299
		2	327	320	313	306	299
		3	327	320	313	306	299
		4	302	295	288	281	274
Western Redcedar ⁽²⁾	RC	1	567	560	553	546	539
Western Hemlock ⁽²⁾	WH	1	313	306	299	292	285
		2	313	306	299	292	285
		3	313	306	299	292	285
		4	313	306	299	292	285
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood ⁽⁴⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska Cedar.

⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per cord.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 3—Proposed Stumpage Value Table
Stumpage Value Area 3**
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$345	\$338	\$331	\$324	\$317
		2	345	338	331	324	317
		3	345	338	331	324	317
		4	315	308	301	294	287
Western Redcedar ⁽²⁾	RC	1	567	560	553	546	539
Western Hemlock ⁽⁴⁾	WH	1	293	286	279	272	265
		2	293	286	279	272	265
		3	293	286	279	272	265
		4	293	286	279	272	265
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any [other conifer not listed in this table.]

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 4—Proposed Stumpage Value Table
Stumpage Value Area 4**
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$341	\$334	\$327	\$320	\$313
		2	341	334	327	320	313
		3	341	334	327	320	313
		4	327	320	313	306	299
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar ⁽³⁾	RC	1	567	560	553	546	539
Western Hemlock ⁽⁴⁾	WH	1	293	286	279	272	265
		2	293	286	279	272	265
		3	293	286	279	272	265
		4	293	286	279	272	265
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽⁴⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 5—Proposed Stumpage Value Table
Stumpage Value Area 5**
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁴⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$339	\$332	\$325	\$318	\$311
		2	339	332	325	318	311
		3	339	332	325	318	311
		4	328	321	314	307	300
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar ⁽³⁾	RC	1	567	560	553	546	539
Western Hemlock ⁽⁴⁾	WH	1	275	268	261	254	247
		2	275	268	261	254	247
		3	275	268	261	254	247
		4	275	268	261	254	247
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽⁴⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$127	\$120	\$113	\$106	\$99
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar ⁽³⁾	RC	1	377	370	363	356	349
True Firs and Spruce ⁽⁴⁾	WH	1	117	110	103	96	89
Western White Pine	WP	1	94	87	80	73	66
Hardwoods	OH	1	23	16	9	2	1
Western Redcedar Poles	RCL	1	377	370	363	356	349
Small Logs ⁽⁵⁾	SML	1	17	16	15	14	13
Chipwood ⁽⁵⁾	CHW	1	2	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁽⁹⁾ Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table
Stumpage Value Area 7**
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$127	\$120	\$113	\$106	\$99
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar ⁽³⁾	RC	1	377	370	363	356	349
True Firs and Spruce ⁽⁴⁾	WH	1	117	110	103	96	89
Western White Pine	WP	1	94	87	80	73	66
Hardwoods	OH	1	23	16	9	2	1
Western Redcedar Poles	RCL	1	377	370	363	356	349
Small Logs ⁽⁵⁾	SML	1	17	16	15	14	13
Chipwood ⁽⁵⁾	CHW	1	2	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁽⁹⁾ Stumpage value per lineal foot.

**TABLE 8 — Proposed Stumpage Value Table
Stumpage Value Area 10**
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$327	\$320	\$313	\$306	\$299
		2	327	320	313	306	299
		3	327	320	313	306	299
		4	313	306	299	292	285
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar ⁽³⁾	RC	1	553	546	539	532	525
Western Hemlock ⁽⁴⁾	WH	1	279	272	265	258	251
		2	279	272	265	258	251
		3	279	272	265	258	251
		4	279	272	265	258	251
Red Alder	RA	1	325	318	311	304	297
		2	286	279	272	265	258
Black Cottonwood	BC	1	51	44	37	30	23
Other Hardwood	OH	1	182	175	168	161	154
Douglas-Fir Poles & Piles	DFL	1	610	603	596	589	582
Western Redcedar Poles	RCL	1	1201	1194	1187	1180	1173
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot.)

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1**
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$394	\$387	\$380	\$373	\$366
		2	394	387	380	373	366
		3	394	387	380	373	366
		4	394	387	380	373	366
Western Redcedar ⁽²⁾	RC	1	701	694	687	680	673
Western Hemlock ⁽³⁾	WH	1	371	364	357	350	343
		2	371	364	357	350	343
		3	371	364	357	350	343
		4	371	364	357	350	343
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood ⁽⁴⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Alaska Cedar.
⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this page.
⁽⁴⁾ Stumpage value per ton.
⁽⁵⁾ Stumpage value per cord.
⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁷⁾ Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
 July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$425	\$418	\$411	\$404	\$397
		2	425	418	411	404	397
		3	425	418	411	404	397
		4	425	418	411	404	397
Western Redcedar ⁽²⁾	RC	1	701	694	687	680	673
Western Hemlock ⁽³⁾	WH	1	381	374	367	360	353
		2	381	374	367	360	353
		3	381	374	367	360	353
		4	381	374	367	360	353
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood ⁽⁴⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Alaska-Cedar.
- ⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this page.
- ⁽⁴⁾ Stumpage value per ton.
- ⁽⁵⁾ Stumpage value per cord.
- ⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁷⁾ Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
 July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$399	\$392	\$385	\$378	\$371
		2	399	392	385	378	371
		3	399	392	385	378	371
		4	307	300	293	286	279
Western Redcedar ⁽³⁾	RC	1	701	694	687	680	673
Western Hemlock ⁽⁴⁾	WH	1	334	327	320	313	306
		2	334	327	320	313	306
		3	334	327	320	313	306
		4	334	327	320	313	306
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Western Larch.
- ⁽³⁾ Includes Alaska-cedar.
- ⁽⁴⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this page.
- ⁽⁵⁾ Stumpage value per ton.
- ⁽⁶⁾ Stumpage value per cord.
- ⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁸⁾ Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
 July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$436	\$429	\$422	\$415	\$408
		2	436	429	422	415	408
		3	436	429	422	415	408
		4	436	429	422	415	408
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar ⁽³⁾	RC	1	701	694	687	680	673
Western Hemlock ⁽⁴⁾	WH	1	324	317	310	303	296
		2	324	317	310	303	296
		3	324	317	310	303	296
		4	324	317	310	303	296
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Western Larch.
- ⁽³⁾ Includes Alaska-Cedar.
- ⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
- ⁽⁵⁾ Stumpage value per ton.
- ⁽⁶⁾ Stumpage value per cord.
- ⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁸⁾ Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
 July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$417	\$410	\$403	\$396	\$389
		2	417	410	403	396	389
		3	417	410	403	396	389
		4	417	410	403	396	389
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar ⁽³⁾	RC	1	701	694	687	680	673
Western Hemlock ⁽⁴⁾	WH	1	353	346	339	332	325
		2	353	346	339	332	325
		3	353	346	339	332	325
		4	353	346	339	332	325
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Western Larch.
- ⁽³⁾ Includes Alaska-Cedar.
- ⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
- ⁽⁵⁾ Stumpage value per ton.
- ⁽⁶⁾ Stumpage value per cord.
- ⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁸⁾ Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 6
 July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$125	\$118	\$111	\$104	\$97
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar ⁽³⁾	RC	1	428	421	414	407	400
True Firs and Spruce ⁽⁴⁾	WH	1	123	116	109	102	95
Western White Pine	WP	1	150	143	136	129	122
Hardwoods	OH	1	32	25	18	11	4
Western Redcedar Poles	RCL	1	428	421	414	407	400
Small Logs ⁽⁵⁾	SML	1	18	17	16	15	14
Chipwood ⁽⁵⁾	CHW	1	4	3	2	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1	0.25	0.25	0.25	0.25	0.25

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Western Larch.
- ⁽³⁾ Includes Alaska-Cedar.
- ⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
- ⁽⁵⁾ Stumpage value per ton.
- ⁽⁶⁾ Stumpage value per cord.
- ⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- ⁽⁹⁾ Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 7
 July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$125	\$118	\$111	\$104	\$97
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar ⁽³⁾	RC	1	428	421	414	407	400
True Firs and Spruce ⁽⁴⁾	WH	1	123	116	109	102	95
Western White Pine	WP	1	150	143	136	129	122
Hardwoods	OH	1	32	25	18	11	4
Western Redcedar Poles	RCL	1	428	421	414	407	400
Small Logs ⁽⁵⁾	SML	1	18	17	16	15	14
Chipwood ⁽⁵⁾	CHW	1	4	3	2	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1	0.25	0.25	0.25	0.25	0.25

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Western Larch.
- ⁽³⁾ Includes Alaska-Cedar.
- ⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
- ⁽⁵⁾ Stumpage value per ton.
- ⁽⁶⁾ Stumpage value per cord.
- ⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- ⁽⁹⁾ Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
 July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$422	\$415	\$408	\$401	\$394
		2	422	415	408	401	394
		3	422	415	408	401	394
		4	422	415	408	401	394
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar ⁽³⁾	RC	1	687	680	673	666	659
Western Hemlock ⁽⁴⁾	WH	1	310	303	296	289	282
		2	310	303	296	289	282
		3	310	303	296	289	282
		4	310	303	296	289	282
Red Alder	RA	1	405	398	391	384	377
		2	374	367	360	353	346
Black Cottonwood	BC	1	80	73	66	59	52
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	651	644	637	630	623
Western Redcedar Poles	RCL	1	1344	1337	1330	1323	1316
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((January)) July 1 through ((June 30)) December 31, 2011:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 ((January)) July 1 through ((June 30)) December 31, 2011

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$50.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610(28)	-\$100.00

**TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
(~~January~~) July 1 through (~~June 30~~) December 31, 2011**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through (6) 5, and 10	\$(0.00) 5.00
Class 2:	SVA 6 and 7	\$0.00

Note: ~~((The))~~ This adjustment ~~((will not be allowed on special forest products))~~ only applies to published MBF sawlog values.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a \$0/ton stumpage value.

**WSR 11-14-052
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)**

[Filed June 29, 2011, 12:18 p.m., effective August 1, 2011]

Effective Date of Rule: August 1, 2011.

Purpose: These proposed amendments to chapter 388-543 WAC, Durable medical equipment and related supplies, prosthetics, orthotics, medical supplies and related services are necessary in order to reorganize the order of the rules to easier use, to eliminate duplicate information, to propose clearer titles, offer a more logical flow, remove old acronyms, cross references, definitions, update coverage policy, update documentation requirements, update client eligibility, clarify proof of delivery requirements, update reimbursement methodology, clarify rental verses purchase, clarify a valid

prescription, update authorization requirements, and clarified limits.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-543-1150, 388-543-1200, 388-543-1225, 388-543-1300, 388-543-1400, 388-543-1500, 388-543-1600, 388-543-1700, 388-543-1800, 388-543-1900, 388-543-2400, 388-543-2500, 388-543-2600, 388-543-2700, 388-543-2800 and 388-543-2900; amending WAC 388-543-1000, 388-543-1100, 388-543-2000, 388-543-2100, 388-543-2200, and 388-543-3000.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.04.050.

Adopted under notice filed as WSR 11-08-070 on April 6, 2011.

Changes Other than Editing from Proposed to Adopted Version: **WAC 388-543-5500 (4)(d) Covered—Medical supplies and related services**, the department fixed an erroneous cross reference:

(4) Blood monitoring/testing supplies:

(d) See WAC 388-543-5500 ~~(4)~~ (12) for blood glucose monitors.

WAC 388-543-5500 (12)(b) Covered—Medical supplies and related services, the department added clarifying language regarding continuous glucose monitoring.

(12) Miscellaneous DME:

(b) Blood glucose monitor (specialized or home) - one in a three-year period. See WAC 388-543-5500(4) for blood monitoring/testing supplies. The department does not pay for continuous glucose monitoring systems including related equipment and supplies under the durable medical equipment benefit. See WAC 388-553-500 Home infusion therapy/parenteral nutrition program.

A final cost-benefit analysis is available by contacting Erin Mayo, P.O. Box 45504, Olympia, WA 98504-5504, phone (360) 725-1729, fax (360) 586-9727, e-mail Erin.Mayo@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 27, Amended 6, Repealed 16.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 27, Amended 6, Repealed 16.

Date Adopted: June 27, 2011.

Susan N. Dreyfus
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-16 issue of the Register.

WSR 11-14-053
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)
[Filed June 29, 2011, 12:20 p.m., effective July 30, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The new rules: (1) Support recently filed rules that meet the Governor's Executive Order 10-06 exemption criteria for rule making because they are necessary to manage budget shortfalls, maintain fund solvency, or for revenue generating activities for fiscal year ending June 30, 2011; (2) assure consistency with how terms are defined and used throughout department medical assistance program rules; (3) meet the requirements of 2E2SHB 1738, the legislation that authorizes the medical purchasing administration and the health care authority (HCA) to merge into one agency effective July 1, 2011, by changing any references to "the department" (DSHS) to "the agency or the agency's designee"; and (4) place defined words and phrases into their own alpha sections which allows readers to locate a definition quickly.

Citation of Existing Rules Affected by this Order: Amending WAC 388-500-0005.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: 2E2SHB 1738.

Adopted under notice filed as WSR 11-07-077 on March 22, 2011.

Changes Other than Editing from Proposed to Adopted Version: **Added the following cross-references (underlined) to definitions in chapter 388-500 WAC:**

WAC 388-500-0020 "**Couple**" See "spouse:" in WAC 388-500-0100.

WAC 388-500-0050 "**Ineligible spouse**" See "spouse:" in WAC 388-500-0100.

WAC 388-500-0050 "**Institution for mental diseases (IMD)**" See "institution:" in this section.

WAC 388-500-0050 "**Institutionalized spouse**" See "spouse:" in WAC 388-500-0100.

WAC 388-500-0050 "**Intermediate care facility for the mentally retarded (ICF/MR)**" See "institution:" in this section.

WAC 388-500-0070 "**Medical institution**" See "institution:" in WAC 388-500-0050.

WAC 388-500-0075 "**Nonapplying spouse**" See "spouse:" in WAC 388-500-0100.

WAC 388-500-0075 "**Noncovered service**" See "covered service:" in WAC 388-500-0020.

WAC 388-500-0075 "**Nursing facility**" See "institution:" in WAC 388-500-0050.

WAC 388-500-0085 "**Public institution**" See "institution:" in WAC 388-500-0050.

Changed "the department" (DSHS) (~~strikethrough~~) to "the agency" (HCA) or "the agency's designee" (underlined):

WAC 388-500-0005 Chapter 388-500 WAC, other ~~department~~ agency or agency's designee WAC, ... other ~~department~~ agency or agency's designee WAC, the definition in the specific WAC prevails.

WAC 388-500-0010 "**Authorization**" means the ~~department's~~ agency's or the agency's designee's determinations ...

to the department's agency's or the agency's designee's decision ...

WAC 388-500-0015 "**By report (BR)**" means ... the department agency or the agency's designee determines ... in the department's agency's or the agency's designee(s) published fee schedules.

WAC 388-500-0025 "**Delayed certification**" means department agency or the agency's designee approval ...

WAC 388-500-0025 "**Dental consultant**" means ... by the department agency or the agency's designee.

WAC 388-500-0030 "**Early and periodic screening, diagnosis and treatment (EPSDT)**" is a ... for any department agency healthcare program.

WAC 388-500-0030 "**Expedited prior authorization (EPA)**" means ... to indicate to the department agency or the agency's designee which acceptable ... or department agency or agency's designee-defined criteria ...

WAC 388-500-0035 "**Fee-for-service (FSS)**" The general payment method the department agency or agency's designee uses ... under the department's agency's prepaid managed care programs.

WAC 388-500-0045 "**Health maintenance organization (HMO)**" means ... the department agency on a ...

WAC 388-500-0050 "**Institution**" ... (3) "Medical institution" (b)(i) "Hospice care center" - an entity ... and approved by the department agency or the agency's designee to be ...

WAC 388-500-0050 "**Institution**" ... (3) "Medical institution" (b)(v) "Psychiatric residential treatment facility (PRTF)"—a nonhospital ... by the department agency or the agency's designee to provide ...

WAC 388-500-0050 "**Institution**" ... (3) "Medical institution" (c) medical institutions do not ... by the department agency or the agency's designee as adult family homes ...

WAC 388-500-0070 "**Medical assistance**" for the purposes of ... by the department agency or the agency's designee that provide ...

WAC 388-500-0070 "**Medical assistance administration (MAA)**" is the former ... now administered by the agency, formerly the medicaid purchasing administration (MPA), of formerly the health and recovery services administration (HRSA).

WAC 388-500-0075 "**NCCI edit**" is a ... state regulations, department agency or the agency's designee fee schedules ... The department agency or the agency's designee has the final decision ... NCCI standards or department agency or agency's designee policy.

WAC 388-500-0085 "**Prior authorization**" is the requirement ... the department's agency's or the agency's designee's approval to render ... The department's agency's or the agency's designee's approval ...

WAC 388-500-0085 "**Provider**" means ... (1) Has signed a... with the department agency or the agency's designee, and is ... (2) Has authorization ... with the department agency or the agency's designee to provide ...

WAC 388-500-0095 "**Regional support network (RSN)**" means ... which the department agency or the agency's designee contracts for ...

WAC 388-500-0100 "**Spenddown**" is a term used ... by the department agency.

WAC 388-500-0105 "**Third party**" means and entity other than the department agency or the agency's designee that is ...

Other changes:

WAC 388-500-0010 "**Agency**" means the Washington state health care authority, created pursuant to chapter 41.05 RCW.

WAC 388-500-0020 "**Covered service**" is a healthcare service contained within a "service category," that is included in a medical assistance benefits package as described in WAC 388-501-0060, included in the medical assistance program's benefit package. For conditions of payment, see WAC 388-501-0050(5). A noncovered service is a specific healthcare service (for example, cosmetic surgery), contained within a service category that is included in a medical assistance benefits package, for which the agency requires an approved exception to rule (ETR) (see WAC 388-501-0160). A noncovered service is not an excluded service (see WAC 388-501-0060).

WAC 388-500-0030 "**Emergency medical expense requirement (EMER)**" See WAC 388-865-0217(3).

WAC 388-500-0030 "**Evidenced-based medicine (EBM)**" means the applications of a set of principles ... and beneficial when making: (1) pPopulation-based healthcare coverage policies (see WAC 388-501-0055 describes how the department determines coverage of services for its healthcare programs by using evidence and criteria based on health technology assessments), or; and (2) iIndividual medical necessity decisions (see WAC 388-501-0165 describes how the department uses the best evidence available to determine if a service is medically necessary as defined in WAC 388-500-0030).

WAC 388-500-0030 "**Extended care services**" means nursing and rehabilitative care in a skilled nursing facility provided to a recently hospitalized medicare patient needing relatively short term skilled nursing and rehabilitative care in a skilled nursing facility.

WAC 388-500-0045 Move definition of "**Healthcare Professional**" to after the definition of "**Health maintenance organization (HMO)**".

WAC 388-500-0045 Add: "**Healthcare service category**" means a grouping of healthcare services listed in the table in WAC 388-501-0060. A healthcare service category is included or excluded depending on the client's medical assistance benefits package.

WAC 388-500-0070 "**Medical facility**" means a medical institution or ~~a medical~~ clinic that provides healthcare services. ~~A medical clinic does not meet the criteria to be considered a medical institution (see "medical institution").~~

WAC 388-500-0075 "**Noncovered service(s)**" means a specific healthcare service(s) or item(s) the department has determined it will not cover or pay for any client under any medical assistance program. Noncovered services are identified in WAC 388-50-0070 and in specific healthcare program rules See "covered service" in WAC 388-500-0020.

WAC 388-500-0100 "**Scope of healthcare service categories**" are the groupings of healthcare services listed in the table in WAC 388-501-0060 that are available under each medical assistance program's benefits package.

WAC 388-500-0100 "State supplemental payment (SSP)" is a state funded cash benefit for certain individuals who are either recipients of the Title XVI supplemental security income (SSI) program or who are clients of the division of developmental disabilities. The SSP allotment for Washington state is a fixed amount of \$28.9 million and must be shared between all individuals who fall into one of the groups listed below. The amount of the SSP may vary each year depending on the number of individuals who qualify. The following groups are eligible for an SSP:

(1) Mandatory SSP group—SSP made to a mandatory income level client (MIL) who was grandfathered into the SSI program. To be eligible in this group, an individual must have been receiving cash assistance in December 1973 under the department's former old age assistance program or aid to the blind and disability assistance. Individuals in this group receive an SSP to bring their income to the level they received prior to the implementation of the SSI program in 1973.

(2) Optional SSP group—SSP made to any of the following:

(a) An individual who receives SSI and has an ineligible spouse.

(b) An individual who receives SSI based on meeting the age criteria of sixty-five or older.

(c) An individual who receives SSI based on blindness.

(d) An individual who has been determined eligible for SSP by the division of developmental disabilities.

(e) An individual who is eligible for SSI as a foster child as described in WAC 388-474-0012.

WAC 388-500-0100 "~~Supplementary payment (SSP)~~" means the state money payment to a person receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes: "~~Mandatory state supplement~~"—the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's former programs of old age assistance, aid to the blind and disability assistance; and "~~Optional state supplement~~"—the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

A final cost-benefit analysis is available by contacting Gail Kreiger, P.O. Box 45500, Olympia, WA 98504-5500, phone (360) 725-1949, fax (360) 725-9152, e-mail gail.kreiger@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 18, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 18, Amended 1, Repealed 0.

Date Adopted: June 24, 2011.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-15 issue of the Register.

WSR 11-14-054

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medicaid Purchasing Administration)

[Filed June 29, 2011, 12:22 p.m., effective July 30, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Inform providers and other stakeholders of the change(s) in federal law. These policy changes are final. The department has to implement them or risk loss of federal matching funds. Implementation requires the department to submit a state plan amendment (SPA) and make necessary changes to WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 388-501-0180 and 388-501-0184.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.04.057 and 74.09.510.

Adopted under notice filed as WSR 11-11-085 on May 18, 2011.

A final cost-benefit analysis is available by contacting Carolyn Adams, Special Assistant for Healthcare Reform Implementation, DSHS, Division of Rates and Finance, P.O. Box 45510, phone (360) 725-1854, e-mail Carolyn.Adams@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: June 28, 2011.

Susan N. Dreyfus
Secretary

AMENDATORY SECTION (Amending WSR 08-08-064, filed 3/31/08, effective 5/1/08)

WAC 388-501-0180 Healthcare services provided outside the state of Washington—General provisions. WAC 388-501-0180 through 388-501-0184 apply only to services payable on a fee-for-service basis for Washington state medical assistance clients.

(1) Subject to the exceptions and limitations in this section, WAC 388-501-0182 and 388-501-0184, the department covers emergency and nonemergency out-of-state healthcare services provided to eligible Washington state medical assistance clients when the services are:

(a) Within the scope of the client's healthcare program as specified under chapter 388-501 WAC;

(b) Allowed to be provided outside the state of Washington by specific program WAC; and

(c) Medically necessary as defined in WAC 388-500-0005.

(2) The department does not cover services provided outside the state of Washington under the Involuntary Treatment Act (chapter 71.05 RCW and chapter 388-865 WAC), including designated bordering cities.

(3) When the department pays for covered healthcare services furnished to an eligible Washington state medical assistance client outside the state of Washington, its payment is payment in full according to 42 CFR 447.15. ~~((The department does not pay when the provider refuses to accept the department's payment as payment in full.))~~

(4) The department determines coverage for transportation services provided out of state, including ambulance services, according to chapter 388-546 WAC.

(5) With the exception of designated bordering cities (see WAC 388-501-0175), if the client travels out of state expressly to obtain healthcare, the service(s) must be prior authorized by the department. See WAC 388-501-0182 for requirements related to out-of-state nonemergency treatment and WAC 388-501-0165 for the department's medical necessity determination process.

(6) The department does not cover healthcare services provided outside the United States and U.S. territories, with the exception of British Columbia, Canada. See WAC 388-501-0184 for limitations on coverage of, and payment for, healthcare provided to medical assistance clients in British Columbia, Canada.

(7) See WAC 388-502-0120 for provider requirements for payment of healthcare provided outside the state of Washington.

AMENDATORY SECTION (Amending WSR 08-08-064, filed 3/31/08, effective 5/1/08)

WAC 388-501-0184 Healthcare services provided outside of the United States and U.S. territories or in a foreign country. For the purposes of this section the term "healthcare services" does not include the diagnosis and treatment for alcohol and/or substance abuse and mental health services.

(1) The provisions of WAC 388-501-0182 apply to this section.

(2) The department does not pay for healthcare services furnished in a foreign country, except for medical services furnished in the province of British Columbia, Canada, under the conditions specified in this section. The department pays for medical services furnished in British Columbia, Canada to the following Washington state medical assistance clients only:

(a) Those who reside in Point Roberts, Washington;

(b) Those who reside in Washington communities along the border with British Columbia, Canada (see subsection (3) of this section for further clarification); and

(c) Members of the Canadian First Nations who live in Washington state.

(3) For those medical assistance clients identified in subsection ~~((+))~~ (2) of this section, the department covers emergency and nonemergency medical services provided in British Columbia, Canada, when the services are:

(a) Within the scope of the client's healthcare program as specified in chapter 388-501 WAC;

(b) Allowed to be provided outside the United States and U.S. territories by specific program WAC; and

(c) Medically necessary as defined in WAC 388-500-0005.

(4) For those medical assistance clients identified in subsection ~~((+))~~ (2) of this section, the department covers non-emergency medical services in British Columbia, Canada, only when:

(a) It is general practice for Washington state medical assistance clients residing in these particular localities to use medically necessary resources across the Canadian border; or

(b) The medical services in British Columbia, Canada are closer or more readily accessible to the client's Washington state residence. As applied to nonemergency medical services, the phrase "closer or more readily accessible to the client's Washington state residence" means:

(i) There is not a United States provider for the same service within twenty-five miles of the client's Washington state residence; and

(ii) The closest Canadian provider of service is closer than the closest U.S. provider of the service.

(5) The department does not cover services provided ~~((outside of the United States))~~ in British Columbia, Canada under the Involuntary Treatment Act (chapter 71.05 RCW and chapter 388-865 WAC).

(6) When the department pays for covered medical services furnished to a Washington state medical assistance client in British Columbia, Canada, its payment is payment in full according to 42 CFR 447.15. ~~((The department does not pay when the provider refuses to accept the department's payment as payment in full.))~~

(7) A British Columbia, Canada provider who furnished healthcare services and/or covered items to a medical assistance client will receive payment from the department only when:

(a) Such reimbursement is made to a financial institution or entity located within the United States in U.S. dollars; and

(b) The participating British Columbia, Canada provider:

(i) Has signed a core provider agreement with the department;

- (ii) Satisfies all medicaid conditions of participation;
(iii) Meets functionally equivalent licensing requirements; and
(iv) Complies with the same utilization control standards as in-state providers.

WSR 11-14-055
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medicaid Purchasing Administration)

[Filed June 29, 2011, 12:24 p.m., effective July 30, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: As a result of the governor's order to reduce budget expenditures for the current fiscal year ending June 30, 2011, by 6.3 percent in the hearing, vision, and dental programs, amendments to the physician-related services rules were also required. To achieve the ordered expenditure reduction, medicaid purchasing administration eliminated optional medical services from program benefit packages for clients twenty-one years of age and older. Chapter 388-531 WAC is being amended to include medical services previously listed in the programs to be eliminated that are necessary to, and included within, appropriate mandatory medical services under federal statutes and rules.

Citation of Existing Rules Affected by this Order: Amending WAC 388-531-0100, 388-531-0150, 388-531-0200, 388-531-0250, 388-531-0400, 388-531-1000, and 388-531-1300.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 11-10-071 on May 3, 2011.

A final cost-benefit analysis is available by contacting Ellen Silverman, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1570, fax (360) 586-9727, e-mail Ellen.Silverman@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 7, Repealed 0.

Date Adopted: June 28, 2011.

Susan N. Dreyfus
 Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-15 issue of the Register.

WSR 11-14-063
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (Division of Child Support)

[Filed June 30, 2011, 9:07 a.m., effective July 31, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The division of child support (DCS) is amending sections in chapter 388-14A WAC, to implement SSB 6893 (61st legislature 2010 2nd sp. sess.), which amended RCW 26.23.035(5) by suspending the child support pass-through as of May 1, 2011.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-5015 and 388-14A-5100.

Statutory Authority for Adoption: RCW 26.23.035 and 74.08.090.

Adopted under notice filed as WSR 11-11-092 on May 18, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: June 24, 2011.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

WAC 388-14A-5015 What is a pass-through payment? (1) Between October 1, 2008 and April 30, 2011, the division of child support (DCS) passed through a portion of child support collections to a family receiving TANF.

(2) A pass-through payment ~~((is))~~ was the portion of a support collection applied to assigned support that the state ~~((elects))~~ elects to pay to a family ~~((currently))~~ receiving TANF at the time the collection was received. The pass-through payment ~~((is))~~ was paid in the following amounts:

(a) Up to one hundred dollars per month to a family with one child in the assistance unit.

(b) Up to two hundred dollars per month to a family with two or more children in the assistance unit.

~~((2))~~ (3) The pass-through ~~((is))~~ was paid from collections ~~((which are))~~ distributed to either current support or assigned arrears.

~~((3))~~ (4) The pass-through amount ~~((can never))~~ for any month could not exceed the amount collected in ~~((the))~~ that month.

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

WAC 388-14A-5100 How does the division of child support notify the custodial parent about support collections? (1) The division of child support (DCS) mails a distribution and disbursement statement once each month to the last known address of a person for whom it received a support collection during the month, except as provided under subsection (6) of this section.

(2) DCS includes the following information in the distribution and disbursement statement:

(a) The amount of support collections DCS received and the date of collection;

(b) A description of how DCS distributed each support collection between current support and the support debt and any fees required by state or federal law;

(c) The amount DCS claims as reimbursement for public assistance paid, if applicable;

(d) The amount kept by the state to repay public assistance paid to the family;

(e) The amount disbursed to the family as a pass-through payment under WAC 388-14A-5015 for collections received between October 1, 2008 and April 30, 2011;

(f) The amount disbursed to the family as a payment on support owed to the family;

(g) The amount kept by the state to pay the twenty-five dollar annual fee, if applicable; and

(h) The amount kept by the state to repay child support paid to the family in error.

(3) The person to whom a distribution and disbursement statement is sent may file a request for a hearing under subsection (4) of this section within ninety days of the date of the statement to contest how DCS distributed the support collections, and must make specific objections to the statement. The effective date of a hearing request is the date DCS receives the request.

(4) A hearing under this section is for the limited purpose of determining if DCS correctly distributed the support money described in the contested statement.

(a) There is no hearing right regarding fees that have been charged on a case.

(b) If a custodial parent (CP) wants to request a hardship waiver of the fee, the CP may request a conference board under WAC 388-14A-6400.

(5) A person who requests a late hearing must show good cause for being late.

(6) This section does not require DCS to send a distribution and disbursement statement to a recipient of payment services only.

WSR 11-14-065
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed June 30, 2011, 9:22 a.m., effective July 31, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The division of child support (DCS) is amending WAC 388-14A-4200 to strike subsection (4) because we believe that subsection (4) goes beyond the intent of RCW 26.18.190, the statute which the rule is meant to implement.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-4200.

Statutory Authority for Adoption: RCW 26.18.190, 26.23.035, 74.08.090, and 74.20A.055.

Adopted under notice filed as WSR 11-11-091 on May 18, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 24, 2011.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4200 Do I get credit for dependent disability payments paid on my behalf to my children? (1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of a noncustodial parent (NCP), the division of child support (DCS) treats the amount of compensation the department or self-insurer pays on behalf of the child or children as if the NCP paid the compensation toward the NCP's child support obligations.

(2) When the Social Security administration pays Social Security disability dependency benefits, retirement benefits, or survivors insurance benefits on behalf of or on account of the child or children of an NCP who is a disabled person, a retired person, or a deceased person, DCS treats the amount of benefits paid for the child or children as if the NCP paid the benefits toward the NCP's child support obligation for the period for which benefits are paid.

(3) Under no circumstances does the NCP have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section.

~~((4) The NCP gets credit only for payments made to the custodial parent or the state. The NCP does not get credit for dependent payments made to the NCP.))~~

WSR 11-14-067
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed June 30, 2011, 10:24 a.m., effective July 31, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend WAC 308-104-014 to require that applicants for driver's licenses who do not have a Social Security number must sign an affidavit that they do not have a Social Security number, and to require that an applicant for a new driver's license who submits such an affidavit must submit additional documentation establishing the applicant's Washington residence address.

Citation of Existing Rules Affected by this Order: Amending WAC 308-104-014.

Statutory Authority for Adoption: RCW 46.01.110, 46.20.091, 46.20.119.

Adopted under notice filed as WSR 11-03-083 on January 19, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 29, 2011.

Ben T. Shomshor
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-16-012, filed 7/23/09, effective 8/23/09)

WAC 308-104-014 Application for driver's license or identicard. A person applying for ~~((an original))~~ a driver's license, instruction permit, or identification card must provide the following information:

- (1) The person's full name, current mailing and Washington residential address, and telephone number;
- (2) The person's physical description, including sex, height, weight, and eye color;
- (3) The person's date and place of birth;

(4)(a) The person's Social Security number, if the Social Security number is required by state or federal law. If the person's Social Security number is not required by state or federal law, the person may voluntarily provide his or her Social Security number in order to assist the department in verifying identity;

(b) If the Social Security number is required by state or federal law and the person has not been issued a Social Security number, the person must submit a sworn affidavit, under penalty of perjury, stating that he or she does not have a Social Security number. The department may require that a person who is applying for a license and who has signed an affidavit under this subsection provide additional documentation satisfactory to the department establishing the person's Washington residence address;

(5) The person's mother's maiden name and whether the person is one of multiple siblings born at the same time;

(6) If the application is for a driver's license or instruction permit, whether the person has been previously licensed, where such license was issued, and under what name;

(7) If the application is for a driver's license or instruction permit, whether the person has ever had his or her driver's license or driving privilege suspended, revoked, cancelled, disqualified, withheld, or denied, and if so, where and when such driving sanction was imposed and the reason for such action;

(8) If the application is for a driver's license or instruction permit, whether the person has had a mental or physical condition or is taking any medication which could impair his or her ability to operate a motor vehicle;

(9) If the application is for a driver's license and the person is under the age of eighteen, a declaration by the person's parent, guardian, or employer that he or she has read and understands the intermediate license restrictions, and a declaration by the person that he or she has read and understands the intermediate license restrictions;

(10) The person's signature and, if the application is for a driver's license or instruction permit and the person is under the age of eighteen, the signature of the person's custodial parent or legal guardian; and

(11) Any supplementary documentation as may be necessary to verify any of the information required by this section.

WSR 11-14-084
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed July 1, 2011, 8:55 a.m., effective August 1, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: On June 11, 2010, the USDA Food and Nutrition Service published the final regulation, "Supplemental Nutrition Assistance Program (SNAP): Quality Control (QC) Provisions of Title IV of Public Law 107-171.["] The changes must be implemented no later than October 1, 2011. The department is amending its rules to comply with federal

requirements and be consistent with federal rules for disqualification periods concerning noncooperation with quality assurance (QA) reviews. Disqualification periods will increase from ninety-five days to one hundred twenty-five days after the end of the annual QA review period. In addition, the penalty for refusal to cooperate will follow the person or persons who refused to cooperate should they leave the Basic Food AU that was originally under quality control review.

Citation of Existing Rules Affected by this Order: Amending WAC 388-464-0001.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Other Authority: 7 C.F.R. § 273.2 (d)(2).

Adopted under notice filed as WSR 11-09-054 on April 18, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 28, 2011.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-464-0001 ((Requirement)) Am I required to cooperate with quality assurance~~((s))~~² (1) To be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), or ~~((federal food stamp benefits))~~ food assistance through Basic Food, transitional food assistance (TFA), or the Washington combined application project (WASHCAP), the following ((clients are required to)) persons must cooperate in the quality assurance (QA) review process:

(a) All adult recipients or payees in a TANF or SFA assistance unit (AU); or

(b) All household members in a ~~((food assistance unit))~~ Basic Food, TFA or WASHCAP AU.

(2) ~~((Assistance units become ineligible for benefits upon a determination of noncooperation by quality assurance and remain ineligible until the client meets quality assurance))~~ If someone who must cooperate under subsection (1) refuses to cooperate, your AU is ineligible for benefits from the date QA has determined that you are refusing to cooperate until the person meets QA requirements or:

(a) For TANF/SFA clients, one hundred twenty days from the end of the annual ~~((quality assurance))~~ QA review period; or

(b) For ~~((food assistance household))~~ Basic Food, TFA, or WASHCAP members, ~~((ninety-five))~~ the penalty period is one hundred twenty-five days from the end of the annual ~~((quality assurance))~~ QA review period.

(3) If a person leaves a Basic Food AU that is currently disqualified for refusing to cooperate in the QA review process, the penalty for refusal to cooperate follows that person and continues for the AU that includes the person(s) who refused to cooperate. If we cannot determine which person refused to cooperate, the penalty continues for the AU that includes the head of household at the time QA found your AU refused to cooperate.

(4) The ~~((quality assurance))~~ QA review period covers the federal fiscal year which runs from October 1st of one calendar year through September 30th of the following calendar year.

~~((4 Individuals reapplying))~~ (5) People applying for TANF, SFA, or ((federal food stamps)) Basic Food after the ((sanction)) penalty period in subsection (2) has ended must provide verification of all eligibility requirements. However, ((individuals meeting)) if your AU is eligible for expedited service ((criteria)) under WAC 388-406-0015, you only need to provide expedited service required verifications ((requirements)).

WSR 11-14-112
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed July 6, 2011, 8:29 a.m., effective August 6, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Technical changes to chapter 181-86 WAC regarding appeal process and administrative law judge. Appeals were removed as a requirement for professional educator standards board by the legislature.

Citation of Existing Rules Affected by this Order: Amending WAC 181-86-140 and 181-86-150.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 11-10-066 on May 2, 2011.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: July 6, 2011.

David Brenna
Legislative and
Policy Coordinator

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-140 Appeal—General. Any person who applies directly to the superintendent of public instruction for a certificate, particular endorsement, certificate renewal, or certificate reinstatement whose application is denied or any person who is notified that his or her certificate is suspended or revoked or that a reprimand order has been issued shall be advised that he or she is entitled to appeal that decision to the superintendent of public instruction if he or she follows the procedures established in this chapter: Provided, That the appeal procedure may not be used to seek reinstatement of a certificate if that certificate has been revoked in the preceding twelve months by the superintendent of public instruction.

The appeal procedure to the superintendent of public instruction consists of two levels, one informal and one formal. The use of the informal level is a condition precedent to use of the formal level. In addition, ~~((the provisions of WAC 181-86-155 provide an additional appeal to the professional educator standards board and))~~ RCW 34.05.570 provides for judicial review of such decisions.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-150 Appeal procedure—Formal SPI review process. Formal appeals to the superintendent of public instruction shall be provided as follows:

(1) Any person who has filed an appeal in accordance with WAC 181-86-140 and desires to have the decision of the review officer formally reviewed by the superintendent of public instruction may do so. To instigate review under this section, a person must file a written notice with the superintendent of public instruction within thirty calendar days following the date of receipt of the review officer's written decision.

(2) For purposes of hearing an appeal under this section, the superintendent of public instruction shall conduct a formal administrative hearing in conformance with the Administrative Procedure Act, chapter 34.05 RCW. The superintendent of public instruction, in carrying out this duty, may contract with the office of administrative hearings pursuant to RCW ~~((28A-03-500))~~ 28A.300.120 to hear a particular appeal. Decisions in cases formally appealed pursuant to this section may be made by the administrative law judge selected by the chief administrative law judge if the superintendent of

public instruction delegates this authority pursuant to RCW ~~((28A-03-500))~~ 28A.300.120.

(3) The decision of the superintendent of public instruction or the administrative law judge, whichever is applicable, shall be sent by certified mail to the appellant's last known address and if the decision is to reprimand, suspend, or revoke, the appellant shall be notified that such order takes effect upon signing of the final order ~~((and that no stay of reprimand, suspension, or revocation shall exist until the appellant files an appeal in a timely manner pursuant to WAC 181-86-155))~~.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 181-86-155 Appeal procedure to PESB.